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Letter dated 31 July 2014 from the Ombudsperson to the President of the Security Council

I have the honour to submit herewith the eighth report of the Office of the Ombudsperson, pursuant to paragraph 20 (c) of annex II to Security Council resolution 2161 (2014), according to which the Ombudsperson shall submit biannual reports to the Council summarizing her activities. The report describes the activities of the Office of the Ombudsperson in the six months since the previous report was issued, covering the period from 1 February to 31 July 2014.

I would appreciate it if the present letter and the report were brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Kimberly **Prost**
Ombudsperson

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Report of the Office of the Ombudsperson pursuant to Security Council resolution 2161 (2014)

I. Background

1. The present report provides an update of the activities undertaken by the Office of the Ombudsperson since the issuance of the seventh report of the Office (S/2014/73), dated 31 January 2014.

II. Activities related to delisting cases

General

2. The primary activities of the Office of the Ombudsperson during the reporting period related to delisting requests submitted by individuals and entities.

Delisting cases

3. During the reporting period, four new cases were submitted to the Office of the Ombudsperson. All four petitions were accepted. The total number of delisting petitions submitted since the establishment of the Office was 55 as at 31 July 2014. Unless the petitioner requests otherwise, all names remain confidential while under consideration and in the case of denial or withdrawal of a petition.

4. In total, the Ombudsperson has submitted 48 comprehensive reports to the Security Council Committee pursuant to resolutions 1904 (2009), 1989 (2011), 2083 (2012) and 2161 (2014) concerning Al-Qaida and associated individuals and entities since the Office was established. During the reporting period, she submitted four reports and appeared before the Committee on four occasions to present five cases.

5. Since the issuance of the seventh report, two individuals[1] have been delisted through the Ombudsperson process and three requests have been denied.[2]

6. Cumulatively, since the Office was established, 46 cases involving requests from an individual, an entity or a combination of both have been completed.[3] As a result of the consideration of these cases through the Ombudsperson process, 34 individuals and 27 entities have been delisted, 1 entity has been removed as an alias of a listed entity, six delisting requests have been refused and one petition has been withdrawn. In addition, three individuals have been delisted by the Committee before the Ombudsperson process was completed. A description of the status of all of the cases, as at 31 July 2014, is contained in the annex to the present report.

7. Nine cases were active at the time of preparation of the present report. The four requests submitted to the Office during the reporting period were presented by individuals. In total, 47 of the 55 cases have been brought by individuals, 2 by an individual together with one or more entities and 6 by entities alone. In 26 of the 55 cases, the petitioner is or was assisted by legal counsel.

[1] Yacine Ahmed Nacer and Youssef ben Abdul Baki Ben Youcef Abdaoui.

[2] As of the release of this report, reasons for the decision to retain have been provided in two of the three cases.

[3] This figure includes three individuals delisted by the Committee before the Ombudsperson process was completed.

Gathering of information from States

8. In the four new cases, 12 requests for information have been sent to date, to eight States. With respect to the four cases for which Comprehensive Reports were submitted to the Committee during the reporting period, there were four instances when a State from which information had been requested failed to respond. In addition to the responses received from States to which requests were specifically directed, some Committee members provided information as a result of the general circulation of petitions. Importantly, in all four cases the designating States and States of residence all provided responses.

9. During the reporting period, the Ombudsperson met on three occasions with officials in capitals on specific cases to gather information directly.

Dialogue with the petitioner

10. During the six months under review, the Ombudsperson interacted with all petitioners during the dialogue phase of pending cases, including through e-mail exchanges, telephone discussions and face-to-face interviews. During the reporting period, the Ombudsperson travelled to interview one petitioner in person.

Access to classified or confidential information

11. Two new arrangements for access to classified or confidential information were entered into during the reporting period, with Finland and Luxembourg.[4] To date, there is one formal agreement with Austria and 13 arrangements with Australia, Belgium, Costa Rica, Finland, France, Germany, Liechtenstein, Luxembourg, the Netherlands, New Zealand, Portugal, Switzerland and the United Kingdom of Great Britain and Northern Ireland.

12. Further progress on expanding the list, in particular to other States often involved in the Ombudsperson process, is urgently needed and discussions are ongoing with a number of States in this regard.

III. Summary of activities related to the development of the Office of the Ombudsperson

General

13. Activities to further develop and strengthen the Office of the Ombudsperson continued during the reporting period to the extent possible.

Outreach and publicizing of the Office

14. The Ombudsperson participated in some outreach activities to the extent possible given the limitations on time and resources.

15. On 13 February, the Ombudsperson took part in a panel at the London School of Economics, hosted by the Department of Law and Matrix Chambers, debating the judgement by the European Court of Justice in the *Kadi* appeal case, entitled "United Nations Ombudsperson v. judicial review in Security Council sanctions

[4] Finland on 31 March and Luxembourg on 20 June.

decision-making". The panel was comprised of the Ombudsperson, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism Ben Emmerson and Professor Carol Harlow of the London School of Economics. Also in February, the Ombudsperson delivered the first annual lecture for the Nottingham International Law and Security Centre on the Office of the Ombudsperson in the context of a perspective on international law innovations and the Security Council.

16. Later in February, the Ombudsperson gave a presentation on the work of her Office for the National Security Law programme at Fordham University in New York City. In March, the Ombudsperson delivered the keynote address on the work of the Ombudsperson and the growing intersection of national and international law at a meeting of the Canadian National Judicial Institute in Vancouver, Canada. In April, the Ombudsperson participated in a panel on the use of confidential/classified material at the joint American Society of International Law 108th Annual Meeting and International Law Association 76th Biennial Conference in Washington, D.C. In May, the Ombudsperson delivered remarks at the formal opening of the global experts meeting of the Counter-Terrorism Implementation Task Force on building capacity for terrorist designations and asset freezing in New York.

Interaction with the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities and with the Monitoring Team

17. Since 31 January 2014, the Ombudsperson has appeared before the Committee on four occasions to present five cases: on 11 February, in the case of Yacine Ahmed Nacer Youssef (delisted; formerly QI.N.165.04); on 25 February, in the case of Youssef ben Abdul Baki Ben Youcef Abdaoui (delisted; formerly QI.A.90.03); on 21 April, in the case of one individual; and on 24 June, in the cases of two individuals. In addition, the Ombudsperson provided a number of written updates to the Committee in relation to various cases as they progressed through each phase.

18. As previously, the Ombudsperson and staff in her Office continued to engage regularly with the Coordinator and members of the Monitoring Team. The Team continued to provide relevant information in accordance with paragraph 4 of annex II to Security Council resolution 2161 (2014). During the reporting period the Team also gave expert advice on issues relevant to particular requests and assisted on several occasions in discussions with petitioners.

Liaison with States, intergovernmental organizations, United Nations bodies and non-governmental organizations

19. The Ombudsperson continued to interact with States during the reporting period, in particular States of relevance to the pending delisting petitions. She had several bilateral meetings with States interested in the work of her Office to discuss general issues and recent legal cases. She maintained contacts and held discussions with the informal Group of Like-Minded States on Targeted Sanctions.[5] In February, the Ombudsperson held a series of meetings and discussions with European Union officials and bodies in Brussels including a briefing to the Foreign Relations

[5] Comprising Austria, Belgium, Costa Rica, Denmark, Germany, Finland, Liechtenstein, the Netherlands, Norway, Sweden and Switzerland.

Counsellors Working Party. The Ombudsperson also met with some State officials in their capitals for general discussions and to obtain information regarding particular cases.

20. The Ombudsperson and staff in her Office continued to interact with representatives of the Counter-Terrorism Implementation Task Force and the Executive Directorate of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism, as well as with the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime and the Office of the United Nations High Commissioner for Human Rights.

21. During the reporting period, the Ombudsperson also had meetings with representatives of non-governmental organizations including Security Council Report, Human Rights Watch and Amnesty International. The Ombudsperson also held meetings with government lawyers and private practitioners, in New York and during trips to London, Washington, D.C., and Brussels, on a variety of legal issues related to her work, including the question of the use of confidential material. The Ombudsperson also had several exchanges with academics on the work of her Office.

Working methods and research

22. As in previous working periods, casework involved open-source research and contacts with journalists and authors to collect information on and verify sources for publicly available case-related material.

23. The Ombudsperson continued to follow developments with regard to relevant national and regional legal cases. She also collected and reviewed relevant press articles and reports of non-governmental organizations and academic articles pertinent to the work of her Office. She discussed general legal issues of relevance with counsel in the Office of Legal Affairs of the Secretariat, and that Office has continued to provide assistance and advice to the Ombudsperson on specific legal issues that have arisen.

Website

24. The website of the Office of the Ombudsperson (www.un.org/en/sc/ombudsperson) continues to be revised and updated. A chart describing the Ombudsperson process has been added.

IV. Other activities

Notifications of listing

25. In accordance with paragraph 18 (b) of annex II to Security Council resolution 2083 (2012) and paragraph 20 (b) of annex II to resolution 2161 (2014), when an individual or entity is added to the list and relevant States have been notified, the Ombudsperson is to send a notification directly to that individual or entity if there is a known address.

26. In the six months since the seventh report was issued, two individuals and five entities have been added to the Al-Qaida sanctions list. Each of those listings was considered with reference to the question of notification. In none of the cases was an

address available, nor was the information provided sufficiently detailed for there to be any reasonable prospect of the notification reaching the addressee.

27. Consistent with the intention of paragraph 20 (b) of resolution 2161 (2014), the Ombudsperson sent similar notification letters to individuals listed prior to the establishment of the Office where address information was available and to any individuals or entities for whom address information subsequently became available. In response to requests, in the reporting period the Ombudsperson received addresses from five States for previously listed individuals with respect to 21 individuals. The Ombudsperson is in the process of sending notifications to these individuals.

Miscellaneous matters

28. The Ombudsperson continued to receive and respond to various inquiries about the Committee and the Ombudsperson process. This included requests for assistance and information from State representatives, United Nations agencies, non-governmental organizations, lawyers, listed individuals, the media, academics, students and the general public.

V. Future work

29. As in previous reporting periods, the paramount activity of the Office of the Ombudsperson will continue to relate to the delisting requests. Four petitions were received during the present reporting period, an increase since the last reporting period.[6] While some decrease in the general trend is to be expected in future given the finite nature of the list, the process continues to attract a steady number of requests. As noted previously, some listed persons and entities remain unaware of the Ombudsperson process and efforts to disseminate information in that regard continue and may possibly trigger additional applications in upcoming months.

30. Given the inconsistent trend and various factors noted in the previous report, it remains difficult to anticipate the future caseload with any certainty. However, on the basis of recent patterns of activity and taking these various factors into account, it is reasonable to assume that the Office of the Ombudsperson will receive approximately four requests in the next six-month period and that eight cases will be active at the end of the next reporting period.

31. Because of the continuing challenges associated with the lack of access to classified material, the development of arrangements or agreements for access to classified or confidential information will remain the second priority for the Office of the Ombudsperson in the upcoming period. The Office will maintain its efforts to raise the issue with States, to enable the Ombudsperson to access critical information of relevance to delisting petitions.

32. As noted in the previous report, it is necessary, after over four years of operation, to review and revise procedural documents related to the Office and to develop systems for better information management including a searchable database. These measures will ensure a more permanent institutional memory for the Office and allow for easy cross-reference and research in future cases where there

[6] Two cases were submitted in the last reporting period.

may be overlapping facts, issues or applicable principles. This work will continue in the next reporting period, to the extent that resources permit.

33. Finally, the Ombudsperson and her Office will continue to carry out outreach and liaison activities as appropriate, in order to make the process more visible and understandable to potential petitioners and other interested actors.

VI. Observations and conclusions

Due process

34. The Ombudsperson process continues to operate in compliance with the fundamental principles of fairness highlighted in previous reports.[7] In all cases completed in the reporting period, the petitioner was informed of the case underlying the listing and had an opportunity to respond and to be heard by the decision maker through the Ombudsperson's comprehensive report. While confidential material, which could not be disclosed to the petitioner, was relied on in one of the cases considered in the reporting period, the Ombudsperson was of the view that on the basis of the totality of the disclosed material in that instance, the petitioner did know the substance of the case if not all the details. All the Committee decisions on delisting petitions made during the reporting period were premised solely on information gathered by the Ombudsperson and followed her recommendation. In no case did the Committee take a decision by consensus contrary to the recommendation and no matter was referred to the Security Council. As a result, each petitioner benefited from an effective, independent review of the basis for the listing and the information supporting it.

35. All of the features of the Ombudsperson process have been retained in resolution 2161 (2014) and the mandate of the Ombudsperson has been extended for an additional 30-month period from 15 July 2015. The essential time frames, which contribute appreciably to the overall fairness of the process, have been maintained with some additional deadlines added to enhance the timeliness of aspects of the procedure.[8] In addition, paragraph 3 of annex II to resolution 2161 (2014) now provides the Ombudsperson with the discretion to shorten the information-gathering period in cases where all the designating States consulted do not object to delisting. This will augment the fairness of the process for petitioners by allowing for a reduced time frame for consideration of the request in appropriate cases.

Cooperation of States

36. State cooperation in terms of responses remained strong in the reporting period. All designating States and States of residence have replied in the cases completed. The four States that did not respond were contacted as relevant States which were thought potentially to hold pertinent information. Of those, two had only a technical link to the case and the other two faced internal circumstances that may well have precluded easy access to information from authorities.

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[7] See in particular the detailed discussion in the sixth report (S/2013/452, paras. 28-32).

[8] See the discussion below on the time limit for the transmittal of reasons by the Committee to the Ombudsperson.

37. During the reporting period, there were serious problems in one case with access to the petitioner and significant delays in the submission of a substantive response. However, through the diligent and extraordinary efforts of officials of the State involved, in New York and in the capital, the challenges were ultimately overcome, evidencing once again the strong cooperation of States with the Office of the Ombudsperson.

38. The major challenge to cooperation remains access to confidential/classified material. In the reporting period there were practical achievements of importance in some individual cases and two new arrangements were agreed. However, efforts continue to increase the number of arrangements/agreements in particular with States that are frequently called upon to provide information in delisting cases.

Provision of reasons for delisting and retention

39. The extensive delays in the communication of the reasons by the Committee in delisting cases and the relatively limited factual and analytical references in the reasons were noted in the seventh report (A/2014/73, paras. 40-41). Security Council resolution 2161 (2014) partly addresses the problem by providing for a 60-day deadline for the transmittal of reasons by the Committee to the Ombudsperson. This time limit is especially welcome in that it applies to outstanding cases where reasons have been delayed for an extensive period. However, this change does not address the content of the letters in delisting cases and, as discussed in the seventh report, it could result in further limitations in that respect.

40. The deadline has also been made applicable to retention cases, which will also be helpful. However, resolution 2161 (2014) does not address the most serious concern with respect to reasons in retention cases. Paragraphs 14 and 15 of annex II to resolution 2083 (2012) were amended by the language in paragraphs 16 and 17 of annex II to resolution 2161 (2014) to better reflect the Ombudsperson procedure by providing for the Committee to convey to the Ombudsperson, at the end of the process, whether the sanction measures are to be retained or terminated, rather than communicating a decision. This amendment makes it even more clear that in a case of retention, the listing is maintained on the basis of the recommendation of the Ombudsperson, which has arisen from the analysis contained in the comprehensive report. Nevertheless, paragraph 16 of annex II still provides that the reasons for the refusal of the delisting petition must come from the Committee. As a result, the possibility remains that the reasons provided will be inconsistent with the observations, analysis and findings of the Ombudsperson, rendering the process fundamentally unfair in the particular case.

41. As described previously, the experience to date with the provision of reasons reinforces the importance of the provision of reasons to the fairness and transparency of the process. The addition of a time frame for the delivery of reasons is a positive development, particularly for delisting cases. Nonetheless, further changes are needed to ensure a fair process in each case, with reasons that are substantive in content and consistent with the comprehensive report of the Ombudsperson.

42. As discussed in the seventh report (S/2014/73, paras. 43-48), these problems can best be addressed by making the provision of reasons fully consistent with the process. This can be accomplished by according the responsibility for reasons to the Ombudsperson, in both delisting and retention cases, with appropriate safeguards

regarding the release of confidential material. The only exception would be in the case of a Committee reversal or a Security Council decision, where responsibility for reasons would be left to the Committee and the Council respectively. Such a structure would be properly reflective of the process as a whole and would significantly enhance its fairness, transparency and efficiency.

Transparency of the process: interested States/petitioner

43. Resolution 2161 (2014) brings about some welcome change with respect to the disclosure of information to interested States that are not members of the Security Council. Paragraph 13 of annex II stipulates that, if requested, the Ombudsperson may provide a copy of the comprehensive report to an interested State (designating State, or State of nationality, residence or incorporation), with the approval of the Committee, with any redactions deemed necessary to protect confidential material. Disclosure will be accompanied by a notification to such States emphasizing the discretionary decision to release the report and the need to protect confidentiality, and confirming that the comprehensive report is attributable solely to the Ombudsperson. This is an opportune addition that "codifies" recent practice, enhances transparency and ensures that the petitioner is aware of possible disclosure of the comprehensive report from the beginning of the process.

44. Unfortunately, however, no progress has been made in terms of the transparency of the process from the perspective of the petitioner. The Ombudsperson remains unable to directly divulge the recommendation to the petitioner and there is no provision for disclosure of the comprehensive report.

General transparency of the process: disclosure of the reasons

45. As discussed in detail in the seventh report (S/2014/73, paras. 49-52), the Ombudsperson process also suffers from limited public transparency. As noted, the comprehensive report, which details the reasoning of the Ombudsperson, is not made available to the petitioner or the public. As a result, the only information about a decision that the petitioner will receive is that conveyed through the reasons, which are provided. This is the sole mechanism prescribed by resolution for possible disclosure of factual information and findings in a case other than the Office of the Ombudsperson, the Committee and now, under resolution 2161 (2014), an interested State. However, there is no provision in the resolution for publication of those reasons by the Ombudsperson, a measure that would enhance the general transparency of the process. Unfortunately, resolution 2161 (2014) does not address disclosure by the Ombudsperson, and an obvious deficiency in transparency therefore remains. This is particularly perplexing given that the petitioner is free to disseminate the reasons — in whole or in part — while the Ombudsperson must continue to keep the information confidential. The benefits of, or reasons for, this non-disclosure requirement are opaque.

Mandate for the follow-up of delisting

46. Previous reports[9] have discussed the problem of delisted persons who face the apparent continued application of the sanctions measures, as well as individuals

[9] See, for example, the seventh report (S/2014/73, paras. 63-64); the sixth report (S/2013/452, paras. 53-55); and the fifth report (S/2013/71, paras. 48-49).

who, because of similarity of names and identifiers, are mistakenly categorized as listed persons.

47. This issue is addressed in resolution 2161 (2014) by enabling the Focal Point to receive and transmit to the Committee communications from delisted persons or those claiming false, mistaken or confused identification as listed persons and to communicate the Committee response. The inclusion of some form of measure to address these cases, within a 60-day time constraint, is a welcome development.

48. Nonetheless, the limited experience to date with humanitarian exemption requests assigned to the Focal Point under resolution 2083 (2012) suggests that practical challenges can arise from the introduction of separate mechanisms for different types of requests under one sanctions regime. To date, the requests for humanitarian exemptions have arisen in cases already being dealt with by the Ombudsperson. As a result, the process has been quite confusing for the person seeking the exemption. In addition there has been unnecessary delay and unavoidable duplication of effort on the part of the Focal Point and the Ombudsperson, in these cases. It is possible that similar problems will arise in the context of follow-up requests and cases involving misidentification. However, as indicated, there has been only minimal practice with exemption requests to date and more time is needed to consider the overall effectiveness of that mechanism, as well as the additional process set out in paragraphs 63 and 64 of resolution 2161 (2014).

Independence of the Office of the Ombudsperson

49. Over the four-year period of its operation, the Office of the Ombudsperson has functioned independently in fulfilling the mandate accorded to it by the Security Council. The work of the Office has been carried out autonomously and in each of the concluded cases the individual or entity involved has benefited from a fair and impartial process which has included an objective review of the factual basis for the listing.

50. However, in light of the contractual, administrative and staffing arrangements through which the resolution mandate has been implemented, success in safeguarding the independence of the Ombudsperson and her Office has been due to the personal efforts of the Ombudsperson, relevant officials within the Department of Political Affairs and the staff members assigned to the Office. While achieved in practice, in principle, no separate office has been established and the applicable administrative arrangements, particularly for budget, staffing, staff management and resource utilization, lack the critical features of autonomy. Further, the contractual arrangements for the Ombudsperson are not consistent with the mandate accorded by the Security Council and contain insufficient safeguards for independence. The need for a framework which reflects the independent nature of the Office has been underscored by the Security Council in resolution 2161 (2014) with the addition of the word "independent" in paragraph 46.[10]

51. As described in the seventh report, practical challenges have begun to arise from these structural difficulties. With reference to the issue raised in that report,

[10] "*The Security Council ... Requests* the Secretary-General to continue to strengthen the capacity of the Office of the Ombudsperson by providing necessary resources, including for translation services, as appropriate, to ensure its continued ability to carry out its mandate in an independent, effective and timely manner".

through discussions, arrangements have been put in place to address administrative and logistical issues such that no substantive reports on trips are required from staff assisting the Ombudsperson. However, this issue was merely symptomatic of the wider problem arising directly from the current contractual and administrative arrangements that are in place. Given the welcome extension of the Ombudsperson's mandate for an additional period of 30 months from July 2015, urgent consideration needs to be given to establishing contractual arrangements and a structure that provides for institutional independence for the Ombudsperson and the Office of the Ombudsperson.

Conclusions

52. The Office of the Ombudsperson currently provides individuals and entities listed by the Al-Qaida Sanctions Committee with a fair and accessible recourse, which includes an independent review of factual information and is consistent with the fundamental precepts of fairness. Resolution 2161 (2014) retains all of the features of the process, which makes it a robust mechanism in that regard. Further, as discussed, the resolution includes improvements that will enhance the timeliness and transparency of the procedure.

53. Efforts continue, and some progress is being made, on obtaining access to confidential and classified material relevant to individual requests. The general cooperation of States remains strong.

54. There is some progress on the important question of reasons for the decisions taken to grant or deny the petition contained in resolution 2161 (2014), which should ensure a more timely delivery of reasons. However, there remains a fundamental inconsistency between the decision-making process and the delivery of reasons, particularly in retention cases. This creates the potential for an unfair process if the reasons are not consistent with the comprehensive report of the Ombudsperson.

55. As described above, significant deficiencies remain in the transparency of the process, particularly from the perspective of the petitioner and in relation to the public dissemination of information.

56. Finally, with the extension to the mandate of the Ombudsperson accorded by resolution 2161 (2014), the contractual status of the Ombudsperson and the administrative arrangements surrounding her Office should be reviewed with a view to institutionalizing independence.

57. Nonetheless, the Ombudsperson process, with the improvements achieved in resolution 2161 (2014), should continue to deliver a fair process and contribute to strengthening the effectiveness and credibility of the Al-Qaida sanctions regime of the Security Council.

Annex

Status of cases

Case 1, one individual (Status: denied)

Date	*Description*
28 July 2010	Transmission of case 1 to the Committee
28 February 2011	Comprehensive report submitted to the Committee
10 May 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 June 2011	Committee decision
1 September 2011	Formal notification to petitioner with reasons

Case 2, Safet Ekrem Durguti (Status: delisted)

Date	*Description*
30 September 2010	Transmission of case 2 to the Committee
26 April 2011	Comprehensive report submitted to the Committee
31 May 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 June 2011	Committee decision to delist
12 August 2011	Formal notification to petitioner with reasons

Case 3, one entity (Status: delisting request withdrawn by petitioner)

Date	*Description*
3 November 2010	Transmission of case 3 to the Committee
14 June 2011	Comprehensive report submitted to the Committee
26 July 2011	Presentation of comprehensive report by the Ombudsperson to the Committee
2 August 2011	Withdrawal of petition

Case 4, Shafiq Ben Mohamed Ben Mohammed Al Ayadi (Status: delisted)

Date	*Description*
6 December 2010	Transmission of case 4 to the Committee
29 June 2011	Comprehensive report submitted to the Committee
26 July 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
17 October 2011	Committee decision to delist
8 November 2011	Formal notification to petitioner with reasons

Case 5, Tarek Ben Al-Bechir Ben Amara Al-Charaabi (Status: delisted)

Date	*Description*
30 December 2010	Transmission of case 5 to the Committee
26 April 2011	Comprehensive report submitted to the Committee
31 May 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 June 2011	Committee decision to delist
12 August 2011	Formal notification to petitioner with reasons

Case 6, Abdul Latif Saleh (Status: delisted)

Date	*Description*
14 January 2011	Transmission of case 6 to the Committee
17 June 2011	Comprehensive report submitted to the Committee
26 July 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
19 August 2011	Committee decision to delist
8 November 2011	Formal notification to petitioner with reasons

Case 7, Abu Sufian Al-Salamabi Muhammed Ahmed Abd Al-Razziq (Status: delisted)

Date	*Description*
28 January 2011	Transmission of case 7 to the Committee
23 September 2011	Comprehensive report submitted to the Committee
15 November 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 November 2011	Committee decision to delist
13 February 2012	Formal notification to petitioner with reasons

Case 8, Ahmed Ali Nur Jim'ale and 23 entities[a] (Status: delisted)

Date	*Description*
17 March 2011	Transmission of case 8 to the Committee
23 September 2011	Comprehensive report submitted to the Committee
13 December 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
27 December 2011	Committee decision to delist six entities
21 February 2012	Committee decision to delist one individual and 17 entities
8 June 2012	Formal notification to petitioner with reasons

[a] Barakaat North America, Inc., Barakat Computer Consulting, Barakat Consulting Group, Barakat Global Telephone Company, Barakat Post Express, Barakat Refreshment Company, Al Baraka Exchange, L.L.C, Barakaat Telecommunications Co. Somalia, Ltd., Barakaat Bank of Somalia, Barako Trading Company, L.L.C, Al-Barakaat, Al-Barakaat Bank, Al-Barakaat Bank of Somalia, Al-Barakat Finance Group, Al-Barakat Financial Holding Co., Al-Barakat Global Telecommunications, Al-Barakat Group of Companies Somalia Limited, Al-Barakat International, Al-Barakat Investments, Barakaat Group of Companies, Barakaat Red Sea Telecommunications, Barakat International Companies and Barakat Telecommunications Company Limited.

Case 9, Saad Rashed Mohammed Al-Faqih and Movement for Reform in Arabia (Status: delisted)

Date	*Description*
19 April 2011	Transmission of case 9 to the Committee
21 February 2012	Comprehensive report submitted to the Committee
17 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
1 July 2012	Committee decision to delist
13 November 2012	Formal notification to petitioner with reasons

Case 10, Ibrahim Abdul Salam Mohamed Boyasseer (Status: delisted)

Date	*Description*
6 May 2011	Transmission of case 10 to the Committee
9 January 2012	Comprehensive report submitted to the Committee
1 March 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
8 May 2012	Committee decision to delist
3 August 2012	Formal notification to petitioner with reasons

Case 11, Mondher ben Mohsen ben Ali al-Baazaoui (Status: delisted)

Date	*Description*
1 June 2011	Transmission of case 11 to the Committee
19 January 2012	Comprehensive report submitted to the Committee
1 March 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 March 2012	Committee decision to delist
10 July 2012	Formal notification to petitioner with reasons

Case 12, Kamal ben Mohamed ben Ahmed Darraji (Status: delisted)

Date	*Description*
30 June 2011	Transmission of case 12 to the Committee
28 February 2012	Comprehensive report submitted to the Committee
3 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
4 May 2012	Committee decision to delist
3 August 2012	Formal notification to petitioner with reasons

Case 13, Fondation Secours Mondial (Status: amended)[b]

Date	*Description*
7 July 2011	Transmission of case 13 to the Committee
14 December 2011	Comprehensive report submitted to the Committee
24 January 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
17 February 2012	Committee decision to amend
9 July 2012	Formal notification to petitioner with reasons

[b] Amended to be removed as an alias of Global Relief Foundation (QE.G.91.02).

Case 14, Sa'd Abdullah Hussein al-Sharif (Status: delisted)

Date	*Description*
20 July 2011	Transmission of case 14 to the Committee
29 February 2012	Comprehensive report submitted to the Committee
3 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
27 April 2012	Committee decision to delist
5 June 2012	Formal notification to petitioner with reasons

Case 15, Fethi ben al-Rebei Absha Mnasri (Status: delisted)

Date	*Description*
4 August 2011	Transmission of case 15 to the Committee
9 March 2012	Comprehensive report submitted to the Committee
17 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 May 2012	Committee decision to delist
3 August 2012	Formal notification to petitioner with reasons

Case 16, Mounir Ben Habib Ben al-Taher Jarraya (Status: delisted)

Date	*Description*
15 August 2011	Transmission of case 16 to the Committee
9 March 2012	Comprehensive report submitted to the Committee
17 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 May 2012	Committee decision to delist
3 August 2012	Formal notification to petitioner with reasons

Case 17, Rachid Fettar (Status: delisted)

Date	*Description*
26 September 2011	Transmission of case 17 to the Committee
27 April 2012	Comprehensive report submitted to the Committee
5 June 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
20 June 2012	Committee decision to delist
19 December 2012	Formal notification to petitioner with reasons

Case 18, Ali Mohamed El Heit (Status: delisted)

Date	*Description*
5 October 2011	Transmission of case 18 to the Committee
2 May 2012	Comprehensive report submitted to the Committee
3 July 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
19 July 2012	Committee decision to delist
19 December 2012	Formal notification to petitioner with reasons

Case 19, Yassin Abdullah Kadi (listed as Yasin Abdullah Ezzedine Qadi) (Status: delisted)

Date	*Description*
16 November 2011	Transmission of case 19 to the Committee
11 July 2012	Comprehensive report submitted to the Committee
10 September 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
5 October 2012	Committee decision to delist

Case 20, Chabaane ben Mohamed ben Mohamed al-Trabelsi (Status: delisted)

Date	*Description*
21 November 2011	Transmission of case 20 to the Committee
23 April 2012	Comprehensive report submitted to the Committee
5 June 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
20 June 2012	Committee decision to delist
19 December 2012	Formal notification to petitioner with reasons

Case 21, Adel Abdul Jalil Ibrahim Batterjee (Status: delisted)

Date	*Description*
3 January 2012	Transmission of case 21 to the Committee
10 October 2012	Comprehensive report submitted to the Committee
6 November 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 January 2013	Committee decision to delist
5 September 2013	Formal notification to petitioner with reasons

Case 22, Ibrahim ben Hedhili ben Mohamed al-Hamami (Status: delisted)

Date	*Description*
6 February 2012	Transmission of case 22 to the Committee
25 September 2012	Comprehensive report submitted to the Committee
6 November 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
21 November 2012	Committee decision to delist
7 February 2013	Formal notification to petitioner with reasons

Case 23, Suliman Hamd Suleiman Al-Buthe (Status: delisted) (Repeated request)

Date	*Description*
23 February 2012	Transmission of case 23 to the Committee
30 August 2012	Comprehensive report submitted to the Committee
27 November 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
10 February 2013	Committee decision to delist
30 August 2013	Formal notification to petitioner with reasons

Case 24, Mamoun Darkazanli (Status: delisted)

Date	*Description*
28 February 2012	Transmission of case 24 to the Committee
12 November 2012	Comprehensive report submitted to the Committee
8 January 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
11 March 2013	Committee decision to delist
30 August 2013	Formal notification to petitioner with reasons

Case 25, Abdullahi Hussein Kahie (Status: delisted)

Date	*Description*
28 February 2012	Transmission of case 25 to the Committee
26 July 2012	Comprehensive report submitted to the Committee
10 September 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
26 September 2012	Committee decision to delist
19 December 2012	Formal notification to petitioner with reasons

Case 26, Usama Muhammed Awad Bin Laden (Status: delisted)
Ombudsperson case became moot following the Committee's decision of 21 February 2013

Date	*Description*
23 April 2012	Transmission of case 26 to the Committee
15 February 2013	Comprehensive report submitted to the Committee
21 February 2013	Committee decision to delist

Case 27, one individual (Status: denied)

Date	*Description*
7 May 2012	Transmission of case 27 to the Committee
11 February 2013	Comprehensive report submitted to the Committee
7 May 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
7 May 2013	Committee decision to retain listing
12 June 2013	Formal notification to petitioner with reasons

Case 28, one individual (Status: denied)

Date	*Description*
7 June 2012	Transmission of case 28 to the Committee
20 November 2012	Comprehensive report submitted to the Committee
8 January 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
8 January 2013	Committee decision to retain listing
29 January 2013	Formal notification to petitioner with reasons

Case 29, Muhammad 'Abdallah Salih Sughayr (Status: delisted)

Date	*Description*
25 July 2012	Transmission of case 29 to the Committee
9 April 2013	Comprehensive report submitted to the Committee
21 May 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
20 July 2013	Committee decision to delist

Case 30, Lajnat Al Daawa Al Islamiya (LDI) (Status: delisted)

Date	*Description*
25 July 2012	Transmission of case 30 to the Committee
15 April 2013	Comprehensive report submitted to the Committee
2 July 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 September 2013	Committee decision to delist

Case 31, Abd al Hamid Sulaiman Muhammed al-Mujil (Status: delisted)

Date	*Description*
1 August 2012	Transmission of case 31 to the Committee
13 March 2013	Comprehensive report submitted to the Committee
30 April 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 June 2013	Committee decision to delist

Case 32, Mohamed ben Mohamed ben Khalifa Abdelhedi (Status: delisted)

Date	*Description*
19 September 2012	Transmission of case 32 to the Committee
5 March 2013	Comprehensive report submitted to the Committee
16 April 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
1 May 2013	Committee decision to delist

Case 33, Mohammed Daki (Status: delisted)

Date	*Description*
12 October 2012	Transmission of case 33 to the Committee
28 May 2013	Comprehensive report submitted to the Committee
30 July 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
16 August 2013	Committee decision to delist

Case 34, Abdelghani Mzoudi (Status: delisted)
Ombudsperson case became moot following the Committee's decision of 18 March 2013

Date	*Description*
8 November 2012	Transmission of case 34 to the Committee
18 March 2013	Committee decision to delist

Case 35, International Islamic Relief Organization, Philippines, branch offices (Status: delisted)

Date	*Description*
13 December 2012	Transmission of case 35 to the Committee
5 September 2013	Comprehensive report submitted to the Committee
1 November 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 January 2014	Committee decision to delist

Case 36, International Islamic Relief Organization, Indonesia, branch office (Status: delisted)

Date	*Description*
13 December 2012	Transmission of case 36 to the Committee
5 September 2013	Comprehensive report submitted to the Committee
1 November 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 January 2014	Committee decision to delist

Case 37, Jaber Abdullah Jaber Ahmed Al-Jalahmah (Status: delisted)[c]

Date	*Description*
4 February 2013	Transmission of case 37 to the Committee
5 September 2013	Comprehensive report submitted to the Committee
1 November 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 January 2014	Committee decision to delist

[c] Jaber Abdullah Jaber Ahmed Al-Jalahmah was relisted on the same date by a separate Committee decision.

Case 38, Moustafa Abbas (listed as Moustafa Abbes) (Status: delisted)

Date	*Description*
13 February 2013	Transmission of case 38 to the Committee
12 August 2013	Comprehensive report submitted to the Committee
13 September 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 September 2013	Committee decision to delist

Case 39, Atilla Selek (Status: delisted)

Date	*Description*
13 February 2013	Transmission of case 39 to the Committee
2 October 2013	Comprehensive report submitted to the Committee
13 December 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
31 December 2013	Committee decision to delist

Case 40, Youssef ben Abdul Baki Ben Youcef Abdaoui (Status: delisted)

Date	*Description*
4 March 2013	Transmission of case 40 to the Committee
14 November 2013	Comprehensive report submitted to the Committee
11 February 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 April 2014	Committee decision to delist

Case 41, L'hadi Bendebka (listed as Abdelhadi Ben Debka) (Status: delisted)

Date	*Description*
12 March 2013	Transmission of case 41 to the Committee
14 October 2013	Comprehensive report submitted to the Committee
3 December 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
18 December 2013	Committee decision to delist

Case 42, Youcef Abbas (listed as Youcef Abbes) (Status: delisted)

Date	*Description*
4 March 2013	Transmission of case 42 to the Committee
2 October 2013	Comprehensive report submitted to the Committee
15 November 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 December 2013	Committee decision to delist

Case 43, Said Yousef AbouAziz (listed as Said Youssef Ali Abu Aziza) (Status: delisted)
Ombudsperson case became moot following the Committee's decision of 26 August 2013

Date	*Description*
27 March 2013	Transmission of case 43 to the Committee
26 August 2013	Committee decision to delist

Case 44, one individual (Status: denied)

Date	*Description*
2 May 2013	Transmission of case 44 to the Committee
4 February 2014	Comprehensive report submitted to the Committee
21 April 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
21 April 2014	Committee decision to retain listing
30 July 2014	Formal notification to petitioner with reasons

Case 45, one individual (Status: denied)

Date	*Description*
6 May 2013	Transmission of case 45 to the Committee
9 December 2013	Comprehensive report submitted to the Committee
11 February 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
11 February 2014	Committee decision to retain listing
17 March 2014	Formal notification to petitioner with reasons

Case 46, Yacine Ahmed Nacer (Status: delisted)

Date	*Description*
10 May 2013	Transmission of case 46 to the Committee
30 December 2013	Comprehensive report submitted to the Committee
25 February 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
13 March 2014	Committee decision to delist

Case 47, Nabil Benatia (listed as Nabil ben Mohamed ben Ali ben Attia) (Status: delisted)

Date	*Description*
3 June 2013	Transmission of case 47 to the Committee
12 November 2013	Comprehensive report submitted to the Committee
13 December 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
31 December 2013	Committee decision to delist

Case 48, one individual (Status: Committee phase)

Date	*Description*
17 June 2013	Transmission of case 48 to the Committee
19 March 2014	Comprehensive report submitted to the Committee
24 June 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee

Case 49, one individual (Status: denied)

Date	*Description*
24 June 2013	Transmission of case 49 to the Committee
3 April 2014	Comprehensive report submitted to the Committee
24 June 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
24 June 2014	Committee decision to retain listing

Case 50, one entity (Status: Committee phase)

Date	*Description*
5 September 2013	Transmission of case 50 to the Committee
30 June 2014	Comprehensive report submitted to the Committee

Case 51, one individual (Status: dialogue phase)

Date	*Description*
28 October 2013	Transmission of case 51 to the Committee
18 August 2014	Deadline for completion of the dialogue phase

Case 52, one individual (Status: information-gathering phase)

Date	*Description*
27 May 2014	Transmission of case 52 to the Committee
29 September 2014	Deadline for completion of the information-gathering phase

Case 53, one individual (Status: information-gathering phase)

Date	*Description*
13 June 2014	Transmission of case 53 to the Committee
13 October 2014	Deadline for completion of the information-gathering phase

Case 54, one individual (Status: information-gathering phase)

Date	*Description*
19 June 2014	Transmission of case 54 to the Committee
20 October 2014	Deadline for completion of the information-gathering phase

Case 55, one individual (Status: information-gathering phase)

Date	*Description*
23 June 2014	Transmission of case 55 to the Committee
23 October 2014	Deadline for completion of the information-gathering phase

United Nations S/2014/554

Security Council

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Letter dated 31 July 2014 from the Secretary-General addressed to the President of the Security Council

Further to my latest report to the Security Council concerning the implementation of resolution 1701 (2006) (S/2014/438), I hereby request the Council to consider the renewal of the mandate of the United Nations Interim Force in Lebanon (UNIFIL), which is due to expire on 31 August 2014. In a letter dated 25 July 2014 addressed to me, the Minister for Foreign Affairs and Emigrants of Lebanon requested that the Council extend the mandate of UNIFIL for a further period of one year, without amendment.

UNIFIL continues to play a crucial role in ensuring peace and stability in southern Lebanon, as well as full respect for the Blue Line by both Lebanon and Israel. Recent incidents of rockets fired from southern Lebanon towards Israel and of retaliation by the Israel Defense Forces (IDF) across the Blue Line are cause for concern. Between 11 and 16 July 2014, at least 11 rockets were launched from the UNIFIL area of operations towards Israel in five separate incidents. Five of the rockets hit Israel. IDF retaliated on all occasions with several rounds of artillery or illumination fire across the Blue Line towards the launching areas. In addition, on 11 July 2014, the Lebanese armed forces found and dismantled two rockets set to launch towards Israel. No casualties or significant damage were reported from either side. In each instance, UNIFIL immediately engaged with IDF and the Lebanese armed forces to urge them to exercise maximum restraint and cooperate with UNIFIL in order to prevent a further escalation of tension and to restore the cessation of hostilities. UNIFIL investigations are ongoing, with a view to establishing the facts and circumstances of these incidents.

In accordance with its mandate, UNIFIL continues to monitor the cessation of hostilities and assist the Lebanese armed forces in taking steps towards the establishment, between the Blue Line and the Litani river, of an area free of any unauthorized armed personnel, assets and weapons. UNIFIL remains engaged with the parties on the outstanding issue of northern Ghajar and continues to monitor and report on ground and air violations of resolution 1701 (2006).

UNIFIL also takes all action necessary, within its capabilities, to ensure that its area of operations is not utilized for hostile activities of any kind. The UNIFIL Maritime Task Force continues to carry out its dual mandate of conducting maritime interdiction operations in the area of maritime operations and training Lebanese navy personnel.

14-58617 (E) 060814

Please recycle

Efforts are ongoing to ensure a comprehensive approach to the implementation of resolution 1701 (2006) that integrates the endeavours of UNIFIL, the Office of the United Nations Special Coordinator for Lebanon and the United Nations country team to further involve the Government of Lebanon in the implementation of resolution 1701 (2006) and to increase the capacity of the Lebanese armed forces. This is intended to facilitate the gradual assumption by the armed forces of effective and sustainable security control of the UNIFIL area of operations and Lebanese territorial waters, as a key element in supporting moves towards a permanent ceasefire.

I underline the call for increased international support for the Lebanese armed forces, in response to their capabilities development plan, as well as in the context of the strategic dialogue between the forces and UNIFIL. In this regard, I am encouraged by the readiness of the international community to support the armed forces through the established coordination tools of international assistance, including the strategic dialogue. This was confirmed most recently by participants in the Ministerial Conference on International Support for the Lebanese Armed Forces, hosted on 17 June 2014 by the Government of Italy in Rome in the framework of the International Support Group for Lebanon.

Cooperation between UNIFIL and the Lebanese armed forces on land and at sea continues to be essential for the implementation of the mandate of UNIFIL. Despite the temporary redeployments of some units of the armed forces from the South Litani Sector to elsewhere in the country, a substantial number of coordinated operational activities between UNIFIL and the armed forces continue to be conducted. As a result of the recent rocket firing incidents, UNIFIL, in coordination with the armed forces, is maintaining an enhanced operational presence on the ground and has intensified patrols across the area of operations to prevent further incidents. The armed forces have increased their presence in the area.

The well-established liaison and coordination arrangements of UNIFIL with the parties, including the tripartite mechanism, have facilitated a number of constructive and pragmatic measures. UNIFIL continues to build on its efforts to promote practical arrangements on the ground and understanding between the Lebanese armed forces and IDF in order to further stabilize the situation along the Blue Line, remove pretexts and possible points of friction, prevent future incidents and build trust.

The process of making the Blue Line visible is proceeding with the marking of non-contentious points. UNIFIL has continued to ensure that the tripartite mechanism is as flexible as possible and enables the parties to discuss a wider range of issues.

The overall attitude of the local population towards UNIFIL remains positive. The freedom of movement of UNIFIL and the security and safety of its personnel are integral to the effective execution of its tasks. The primary responsibility for ensuring freedom of movement to UNIFIL personnel in the area of operations lies with the Lebanese authorities.

The total number of military personnel, as at 15 July 2014, stands at 10,159 and the civilian component numbers 278 international and 607 national staff.

I am grateful to the 38 troop-contributing countries that make up UNIFIL for their ongoing commitment. That commitment, coupled with the development of a

strategic partnership with the Lebanese armed forces, has enabled the successful implementation of several key aspects of resolution 1701 (2006). As the UNIFIL mandate approaches its expiration date, however, it is clear that more work remains to be done.

I would like to express my appreciation to the Head of Mission and Force Commander of UNIFIL, Major General Luciano Portolano, and to all the military and civilian personnel of UNIFIL, for the work they are carrying out in southern Lebanon in the service of peace. I also would like to acknowledge the dedicated service of Major General Paolo Serra, who has led UNIFIL for the past two and a half years and who completed his assignment on 24 July 2014.

Regarding the financial aspects of UNIFIL, the General Assembly, by its resolution 68/292, appropriated to the Special Account for UNIFIL the amount of $509.6 million gross for the maintenance of the mission for the period from 1 July 2014 to 30 June 2015. Should the Security Council decide to extend the mandate of the mission beyond 31 August 2014, the cost of maintaining UNIFIL will be limited to the amounts approved by the Assembly.

As at 23 July 2014, unpaid assessed contributions to the Special Account for UNIFIL amounted to $19.2 million. Total outstanding assessed contributions for all peacekeeping operations at the same date amounted to $3,267.1 million. As at 23 July 2014, the total amount owed to Member States that contribute troops to UNIFIL was $24.1 million. Troop and contingent-owned equipment costs have been reimbursed for the periods up to 30 April 2014 and 31 March 2014, respectively, in accordance with the quarterly payment schedule.

With the above information in mind, I recommend that the Council extend the mandate of UNIFIL for a further period of 12 months, until 31 August 2015.

I should be grateful if you would bring the present letter to the attention of the members of the Council.

(*Signed*) **BAN** Ki-moon

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Item 128 of the provisional agenda*
International Residual Mechanism for Criminal Tribunals

Security Council
Sixty-ninth year

International Residual Mechanism for Criminal Tribunals

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and of the Security Council the second annual report of the International Residual Mechanism for Criminal Tribunals, submitted by the President of the Mechanism in accordance with article 32 (1) of the statute of the Mechanism (see Security Council resolution 1966 (2010), annex 1).

* A/69/150.

14-58623 (E) 140814

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Letter of transmittal

Letter dated 1 August 2014 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the General Assembly and the President of the Security Council

I have the honour to submit the second annual report of the International Residual Mechanism for Criminal Tribunals, dated 1 August 2014, to the General Assembly and the Security Council, pursuant to article 32 (1) of the statute of the Mechanism.

(*Signed*) Theodor **Meron**
President

Second annual report of the International Residual Mechanism for Criminal Tribunals

Summary

The present report outlines the activities of the International Residual Mechanism for Criminal Tribunals from 1 July 2013 to 30 June 2014.

Following the opening of its branch in The Hague on 1 July 2013, the Mechanism is now operating on two continents and performing functions inherited from both the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. These functions include attending to certain judicial matters, providing protection to witnesses, supervising the enforcement of sentences and managing archives.

During the reporting period, the President supervised matters related to the management of the Mechanism, coordinated the work of the Chambers and issued a number of orders and decisions, including on applications for early release and the designation of States in which convicted persons are to serve their sentences. The Appeals Chamber held a hearing in its first appeal from a judgement and issued a number of decisions in that and other cases. In addition, single judges rendered a substantial number of orders and decisions, primarily concerning the variation of protective measures for witnesses.

The Office of the Prosecutor focused on the activities within its remit, including the tracking of the remaining fugitives indicted by the International Criminal Tribunal for Rwanda, the rendering of assistance to national authorities and the prosecution of the Mechanism's first appeal from a judgement. In addition, the Office of the Prosecutor established systems and procedures to streamline its operations and ensure greater coordination between its offices at the two branches.

The Registry provided and coordinated a wide range of administrative and judicial support services for the Mechanism. It offered protection and support services to witnesses, worked on various aspects of the enforcement of sentences handed down by the Tribunals and collaborated with the Tribunals on the preparation of records and archives for transfer to the Mechanism. The Registry also assisted in the conclusion of a host State agreement with the United Republic of Tanzania and is managing the construction of the new premises for the Arusha branch. On the administrative front, the Mechanism continued to recruit a diverse and experienced staff.

Contents

		Page
I.	Introduction	5
II.	Activities of the Mechanism	5
	A. Organization	5
	B. Legal and regulatory framework	6
	C. Mechanism Coordination Council	6
	D. Rules Committee	6
	E. Coordination with other tribunals	6
III.	Activities of the President and the Chambers	7
	A. Principal activities of the President	7
	B. Principal activities of single judges/duty judge	7
	C. Principal activities of the Appeals Chamber	8
IV.	Activities of the Office of the Prosecutor	9
	A. Arusha branch of the Office of the Prosecutor	9
	B. The Hague branch of the Office of the Prosecutor	11
V.	Activities of the Registry	12
	A. Administration, staffing and facilities	12
	B. Support for judicial activities	13
	C. Support for other mandated activities	14
VI.	Conclusion	16

I. Introduction

1. The second annual report of the International Residual Mechanism for Criminal Tribunals outlines the activities of the Mechanism for the period from 1 July 2013 to 30 June 2014.

2. On 1 July 2013, the Mechanism opened its branch in The Hague. As a result, the Mechanism now has branches on two continents; the first branch, located in Arusha, United Republic of Tanzania, opened on 1 July 2012. Consistent with its statute and the transitional arrangements, the Mechanism has now assumed certain responsibilities and functions from the International Tribunal for the Former Yugoslavia, in addition to those functions transferred from the International Criminal Tribunal for Rwanda during the previous reporting period.

3. The Mechanism's mandate includes ensuring the trial of fugitives who are among the most senior leaders suspected of being the most responsible for crimes. To date, all fugitives indicted by the International Tribunal for the Former Yugoslavia have been apprehended and transferred to the Tribunal for trial. Among the persons indicted by the International Criminal Tribunal for Rwanda, nine individuals are still at large. Three of the nine are expected to be tried by the Mechanism; the cases of the remaining six have been referred to Rwanda for trial.

4. The Mechanism has also been mandated to conduct a number of other judicial activities, consistent with the provisions of its statute and the dates specified in the transitional arrangements. These activities include retrials of cases completed by the two Tribunals, appeals of their judgements and sentences, reviews of their proceedings, and contempt of court and false testimony cases.

5. In addition, the Mechanism has been tasked with assuming certain functions from the two Tribunals, including protection of victims and witnesses who have testified in the Tribunals' or the Mechanism's cases, management of the Tribunals' and the Mechanism's archives, supervision of the enforcement of sentences handed down by the Tribunals, responding to requests for assistance from national authorities in relation to the investigation or prosecution of those responsible for serious violations of international humanitarian law in the former Yugoslavia and Rwanda, and monitoring cases referred to national courts by the two Tribunals.

6. During the reporting period, the Mechanism conducted a range of judicial and other activities within its remit. In addition, the Mechanism further developed its legal and regulatory framework and engaged in significant recruitment efforts. Although it still relied on the Tribunals during the reporting period for support services, such as human resources, finance, budget, procurement, logistics, security, and information technology services, on 1 January 2014 the Mechanism began the gradual process of establishing its own administrative capacity.

II. Activities of the Mechanism

A. Organization

7. The Mechanism consists of three organs: (a) the Chambers, comprising a Trial Chamber for each branch of the Mechanism and an Appeals Chamber common to both branches of the Mechanism and presided over by the President; (b) the

Prosecutor, common to both branches of the Mechanism; and (c) the Registry, common to both branches of the Mechanism, which provides administrative services to the Mechanism, including the Chambers and the Prosecutor.

8. Each organ is headed by a full-time principal common to both branches and serving terms of four years. The President of the Mechanism is Judge Theodor Meron, the Prosecutor is Hassan Bubacar Jallow, and the Registrar is John Hocking.

9. The Mechanism is a temporary institution. As decided by the Security Council, the Mechanism shall operate for an initial four-year period, starting from 1 July 2012. Unless the Council decides otherwise, the Mechanism shall continue to operate for subsequent periods of two years, following reviews by the Council of the progress of the Mechanism's work, including in completing its functions.

B. Legal and regulatory framework

10. The Mechanism has continued to develop a structure to govern its activities, mindful of the need to develop rules, procedures and policies that harmonize and build upon the best practices of both the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. During the reporting period, the Mechanism adopted practice directions on the requirements and procedures for appeals and the length of briefs and motions, and prepared other regulatory documents and policies.

C. Mechanism Coordination Council

11. Pursuant to rule 25 of the Mechanism's Rules of Procedure and Evidence, the Mechanism Coordination Council is composed of the President, the Prosecutor and the Registrar and meets on an ad hoc basis to coordinate the activities of the three organs of the Mechanism. The Council has met to discuss, inter alia, issues relating to the establishment of the Mechanism, the transfer of functions from the two Tribunals, budgetary matters, the regulatory framework and other matters of common concern. The Mechanism Coordination Council has also held joint meetings with the Coordination Council of the International Criminal Tribunal for Rwanda to discuss cross-cutting issues relating to the provision of services, budgetary matters and the transition of functions.

D. Rules Committee

12. The President assigned two Mechanism judges to a Rules Committee, namely Judge Vagn Joensen and Judge Carmel Agius, who are also the Chairs of the Rules Committees of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, respectively. The Mechanism's Rules Committee is considering a number of proposals for amendments to the Rules.

E. Coordination with other tribunals

13. During the reporting period, the Mechanism coexisted with both the International Criminal Tribunal for Rwanda and the International Tribunal for the

Former Yugoslavia and benefited greatly from the two predecessor institutions, receiving significant operational and administrative support from them. The staff of the three institutions have worked together closely and shared institutional knowledge, expertise and lessons learned.

III. Activities of the President and the Chambers

A. Principal activities of the President

14. The President, in his capacity as the head of the Mechanism, engaged in many issues relating to the establishment and management of the Mechanism. He developed and adopted practice directions, held regular meetings with the Registrar on operational matters and represented the Mechanism in a variety of forums.

15. As mandated by the statute, during the reporting period the President submitted two six-monthly reports on the progress of the Mechanism to the Security Council and twice briefed the Council on the work of the Mechanism, in December 2013 and June 2014. In addition, the President presented the Mechanism's first annual report to the General Assembly (A/68/219-S/2013/464) in October 2013.

16. In November 2013, the President made his second visit to Rwanda as part of an official mission by representatives of both the International Criminal Tribunal for Rwanda and the Mechanism, which included the President of the Tribunal and the "double-hatted" Prosecutor of the Tribunal and the Mechanism. The representatives of both entities met with Rwandan officials to provide an update on the ongoing transition of the Tribunal's responsibilities and functions to the Mechanism. The President also visited countries of the former Yugoslavia to engage with government officials, attend public events and meet with victims' groups. In addition, he met with State officials and victims' groups from the former Yugoslavia in other locations, including The Hague.

17. In his judicial capacity, the President issued numerous assignment orders, as well as six decisions granting early release, a decision provisionally recognizing a sentence remission, six orders designating an enforcement State and other confidential orders and decisions. He ruled on two requests for administrative review of a decision by the Registrar of the Mechanism, one of which was confidential. The President dismissed without prejudice three requests for revocation in relation to cases transferred to Rwanda for prosecution and issued two other decisions relating to referred cases. He also partially denied a motion in a contempt-related matter. In addition, the President presided over the Appeals Chamber and served as pre-appeal judge on the Mechanism's first appeal from judgement, in the case of *Augustin Ngirabatware v. the Prosecutor*.

B. Principal activities of single judges/duty judge

18. During the reporting period, the Mechanism received a number of requests for access to confidential information or variation of protective measures for use in national proceedings under rule 86 of the Rules. At the Arusha branch, Judge Vagn Joensen, as the single judge, issued seven decisions on such requests during the reporting period. Similarly, at the Hague branch, Judge Bakone Justice Moloto

issued 23 such decisions during the reporting period. He also issued a decision concerning protective measures under rule 76 of the Rules.

19. In addition, Judge Joensen rendered four decisions denying post-appeal requests in the *Eliézer Niyitegeka* case and two decisions on allegations of contempt arising out of the *Augustin Ngirabatware* case. He also issued a decision and an order with respect to two confidential matters. Judge Moloto issued two decisions in contempt-related matters, an order following the receipt of material from a State and an order concerning a request for redaction and reclassification of material. Judge Burton Hall issued a decision on a confidential matter and an order concerning a request for redaction and reclassification of material.

20. In May 2014, at the request of the Prosecutor, Judge Joensen vacated the warrants from the International Criminal Tribunal for Rwanda for the arrest of Fulgence Kayishema, Phénéas Munyarugarama, Aloys Ndimbati, Ladislas Ntaganzwa, Charles Ryandikayo and Charles Sikubwabo, replacing them with Mechanism warrants for their arrest and transfer to Rwandan authorities. These warrants and orders are public and addressed to all Member States, which are obliged, under article 28 of the statute of the Mechanism, to comply with the requests without undue delay.

C. Principal activities of the Appeals Chamber

21. During the reporting period, the Appeals Chamber was seized of an appeal from judgement, concerning the *Augustin Ngirabatware* case. A trial chamber of the International Criminal Tribunal for Rwanda convicted Mr. Ngirabatware, a former Minister of Planning in Rwanda, of genocide, direct and public incitement to commit genocide, and rape as a crime against humanity, and sentenced him to 35 years of imprisonment. Mr. Ngirabatware appealed against the trial judgement, and the briefing was completed on 13 August 2013. The Appeals Chamber heard oral arguments in Arusha on 30 June 2014, after having rendered 10 pre-appeal orders and decisions. A decision in relation to three motions concerning the admission of additional evidence on appeal is pending, and a judgement is expected before the end of 2014.

22. In addition, as at the conclusion of the reporting period, the Appeals Chamber was seized of a request for review filed by Milan Lukić. The briefing in that case was completed on 10 April 2014. The President, in his capacity as either pre-review judge or presiding judge of the *Milan Lukić* case, rendered four orders and decisions dealing with various preliminary motions and other confidential requests. The Appeals Chamber also issued a decision on an appeal against a decision denying the revocation of the referral of the *Radovan Stanković* case to the authorities of Bosnia and Herzegovina, as well as a decision on appeals filed by Deogratias Seburezo and Maximilien Turinabo in relation to contempt proceedings.

23. As at 30 June 2014, the Appeals Chamber was seized of a request filed by Eliézer Niyitegeka for the assignment of counsel to assist him with an anticipated request for review. An additional confidential matter and a related motion were also pending before the Appeals Chamber.

IV. Activities of the Office of the Prosecutor

24. During the reporting period, the Office of the Prosecutor continued to discharge its mandate with respect to a variety of activities, including the tracking of fugitives, the rendering of assistance to national authorities, the monitoring of cases referred to national jurisdictions, the maintenance of fugitive files in anticipation of arrest and the prosecution of an appeal and other litigation before the Mechanism's Appeals Chamber.

25. In addition, the reporting period saw the establishment of systems and procedures to streamline operations and ensure greater coordination between the branches. The first joint branch meeting of the Office of the Prosecutor was held in Arusha in November 2013. Since then, the Prosecutor has issued two regulations (on the standards of professional conduct of prosecution counsel and on requests for assistance made by national authorities or international organizations to the Prosecutor) and an internal guideline (on disclosure of witness material in response to requests for assistance). In addition, the Prosecutor made available a guide on the Mechanism's website to assist authorities in making applications for variation of protective measures.

A. Arusha branch of the Office of the Prosecutor

26. The Arusha branch of the Office of the Prosecutor is fully staffed, with a total of 15 core staff in Arusha and the Kigali sub-office. A prosecution appeals team is also in place to handle the appeal from the judgement in the *Augustin Ngirabatware* case (see below). In addition, the Prosecutor is preparing a roster of potential staff in anticipation of the arrest and trial of the Mechanism's fugitives. The Arusha branch continues to receive support, where necessary, from the Office of the Prosecutor of the International Criminal Tribunal for Rwanda to ensure the smooth transition of functions.

1. Fugitive tracking and trial readiness

27. The responsibility for tracking the remaining fugitives indicted by the International Criminal Tribunal for Rwanda has devolved to the Mechanism. The arrest and prosecution of the top three fugitives, Augustin Bizimana, Félicien Kabuga and Protais Mpiranya, is a key priority, and the Prosecutor has further intensified efforts to track those fugitives, with particular emphasis on the Great Lakes and southern African regions.

28. The Prosecutor continues to receive support from the International Criminal Police Organization, the United States Department of State, through its War Crimes Rewards Program, and some Member States, and he is grateful for the Security Council's renewed and essential call, in its resolution 2150 (2014), for all Member States to cooperate with the Mechanism in the arrest and prosecution of the nine remaining fugitives.

29. Pursuant to article 28 (3) of the statute, the Prosecutor continues to render assistance, where possible, to the tracking of the six fugitives whose cases have been referred to Rwanda (Fulgence Kayishema, Phénéas Munyarugarama, Aloys Ndimbati, Ladislas Ntaganzwa, Charles Ryandikayo and Charles Sikubwabo).

2. Appeal and post-appeal proceedings

30. During the reporting period, the prosecution appeals team assumed responsibility for defending the *Ngirabatware* trial judgement on appeal. Briefing has been completed, and three status conferences were held, on 10 July and 8 November 2013 and on 12 February 2014. The team responded to motions by Augustin Ngirabatware for the admission of additional evidence on appeal. Oral arguments were heard by the Appeals Chamber on 30 June 2014.

31. The Office responded to post-conviction requests filed by Eliézer Niyitegeka and two other convicted persons. Mr. Niyitegeka filed four motions, of which three were dismissed by a single judge during the reporting period. The Office also responded to two applications for early release and an application for disclosure of certain documents filed by three convicted persons, respectively.

3. Assistance to national jurisdictions

32. During the reporting period, the Arusha branch of the Office of the Prosecutor received 74 requests for assistance from 14 Member States and international organizations and hosted a delegation from a national prosecuting authority. Responding to such requests involved searching for, identifying, reviewing and analysing relevant material in the evidence and information databases of the Office of the Prosecutor, seeking the consent of witnesses or providers of confidential information and/or filing submissions in relation to applications for variation of protective measures.

4. Preservation and management of archives

33. During the reporting period, the Office of the Prosecutor of the International Criminal Tribunal for Rwanda transferred 330 boxes of material concerning five completed cases and early investigation records to the Arusha branch of the Office of the Prosecutor.

34. The Office of the Prosecutor of the Tribunal is also working to classify its evidence collection records in accordance with Secretary-General's bulletin ST/SGB/2012/3 entitled "International Criminal Tribunals: information sensitivity, classification, handling and access" and the Mechanism's standard for preparation and transfer of records — digital records, before they are transferred to the Arusha branch. While much has been achieved, there is still much more to be done.

5. Monitoring of cases transferred to national jurisdictions

35. The Prosecutor continued to monitor progress in referred cases, namely the cases of Wenceslas Munyeshyaka and Laurent Bucyibaruta, which were transferred to France in 2007, and those of Jean Uwinkindi and Bernard Munyagishari, which were transferred to Rwanda in 2012 and 2013, respectively. The Prosecutor's monitoring is distinct from that being conducted by the Mechanism pursuant to article 6 of the statute, described in section V below.

36. In the Prosecutor's view, substantial progress has been achieved in the pretrial phase of the *Munyeshyaka* proceedings in France, now expected to be concluded by the end of 2014, with any possible trial expected to commence and be concluded by the end of 2015. According to reports to the Prosecutor from the French authorities, it is expected that the pretrial phase of the *Bucyibaruta* proceedings will be

concluded by the end of 2015, with any possible trial anticipated to commence and be concluded by the end of 2016.

37. The *Uwinkindi* trial in Rwanda began in the High Court on 14 May 2014 and continued on 4 June 2014. Hearings were to resume on 4 July 2014. The *Munyagishari* case is in pretrial proceedings; a date has yet to be fixed for the commencement of the trial.

6. Other projects

38. The Arusha branch of the Office of the Prosecutor continued to work with its counterpart in the International Criminal Tribunal for Rwanda on a number of projects, including a best practices manual for the investigation and prosecution of sexual and gender-based violence launched in January 2014, a related training programme to be conducted in the Great Lakes region later in 2014, the development of a best practices manual on the referral of international cases to national jurisdictions, and a consolidated account of the Rwandan genocide based on facts adjudicated in the judgements of the Trial and Appeal Chambers of the Tribunal.

B. The Hague branch of the Office of the Prosecutor

39. The Hague branch of the Office of the Prosecutor began operations on 1 July 2013. It is almost fully staffed, with 10 core staff members on board. In addition, an advance prosecution appeals team was established to handle appeals against judgements of the International Tribunal for the Former Yugoslavia before the Mechanism's Appeals Chamber. While preparing to deal with the first appeal from a Tribunal judgement expected before the Mechanism, these staff members continue to assist the Office of the Prosecutor of the Tribunal. Recruitment is in progress for further advance appeal teams to be in place by January 2015. Double-hatting arrangements are in place to make efficient use of resources.

1. Contempt proceedings

40. The Hague branch of the Office of the Prosecutor responded to three requests concerning allegations of contempt filed by Radovan Karadžić.

2. Appeal and post-appeal proceedings

41. The Hague branch of the Office of the Prosecutor has been preparing for the eventuality of an appeal in the case of Vojislav Šešelj, who is currently awaiting judgement before the International Tribunal for the Former Yugoslavia.

42. The Hague branch of the Office of the Prosecutor also responded to the appeal of Radovan Stanković against a decision of the Referral Bench of the Tribunal denying his request to revoke the referral of his case to Bosnia and Herzegovina. The Appeals Chamber dismissed the appeal.

3. Review proceedings

43. The Hague branch of the Office of the Prosecutor responded to a request for review of judgement by Milan Lukić. The request for review is pending before the Appeals Chamber.

4. Assistance to national jurisdictions

44. On 1 July 2013, the servicing of requests for assistance from national authorities and international organizations in relation to cases from the International Tribunal for the Former Yugoslavia moved to the Office of the Prosecutor of the Mechanism, with the exception of requests relating to ongoing cases before the Tribunal. The Hague branch of the Office of the Prosecutor received 244 requests for assistance from seven Member States and one international organization. The number of requests for assistance received was higher than had been anticipated in the budget, and a temporary position was created to manage the resulting backlog. The Hague branch of the Office of the Prosecutor also cooperates closely with liaison prosecutors from Bosnia and Herzegovina, Croatia and Serbia embedded in the Office of the Prosecutor of the Tribunal. Responding to requests for assistance included locating relevant material, certifying documents, contacting witnesses and seeking the consent of providers of confidential information. In addition, the Hague branch of the Office of the Prosecutor filed 16 submissions in relation to applications by requesting authorities for variation of protective measures.

45. The Hague branch of the Office of the Prosecutor participated in the annual regional conference of prosecutors from the former Yugoslavia held in Brijuni, Croatia. The Office is also in the process of negotiating memorandums of understanding with prosecutors in countries of the former Yugoslavia to entrench cooperation and mutual legal assistance and ensure continuity as the Office takes over these responsibilities from the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia.

5. Requests from the Registrar of the Mechanism

46. During the reporting period, the Hague branch of the Office of the Prosecutor responded to requests for information from the Registrar of the Mechanism concerning the administration of sentences for 10 convicted persons.

6. Preservation and management of archives

47. The Hague branch of the Office of the Prosecutor is working with the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia to prepare to hand over records from the latter to the former.

V. Activities of the Registry

48. The Registry is responsible for the provision of legal, judicial, policy, diplomatic and administrative support to the Mechanism's operations. In addition, it played a key role in the commencement of the Hague branch operations on 1 July 2013.

A. Administration, staffing and facilities

49. During the reporting period, the General Assembly, in its resolution 68/257, approved the Mechanism's budget presented by the Registrar in its entirety. In that resolution, the Assembly appropriated a total amount of $120,296,600 gross ($112,831,500 net) for the biennium 2014-2015. The budget includes: (a) a total of 30 new posts to set up a small independent administration for the Mechanism;

(b) the continuation of the 67 substantive posts approved in 2012-2013; and (c) the establishment of 29 substantive posts, which were previously provided under the budgets of the two Tribunals through the double-hatting arrangement. The post of Registrar continues to be funded by the budget of the International Tribunal for the Former Yugoslavia under the double-hatting arrangement throughout the biennium.

50. With the gradual introduction of the 30 administrative posts, the Mechanism began to transition away from dependence on the Tribunals. The transfer of administrative functions to the Mechanism began on 1 January 2014 and is being implemented gradually over the biennium, in step with the downsizing of the Tribunals and with a focus on ensuring efficiency, accountability and consistency.

51. As at 30 June 2014, a total of 133 staff (regular posts and general temporary assistance) had been recruited for the Mechanism: 67 for the Hague branch and 66 for the Arusha branch, including Kigali. The Mechanism's staff includes nationals of 48 States. Approximately 83 per cent of those recruited are current or former staff of the two Tribunals, and 49 per cent of all staff are female and 51 per cent male. Among staff in the Professional and higher categories, 51 per cent are female and 49 per cent male.

52. The Hague branch is co-located with the International Tribunal for the Former Yugoslavia, while the Arusha branch continues to be co-located with the International Criminal Tribunal for Rwanda but is expected to move to its new premises in 2016. The budget for the construction of the premises of the Arusha branch, included in the overall budget of the Mechanism, was approved by the General Assembly in its resolution 68/257 of 27 December 2013, and on 30 January 2014 the Secretary-General submitted his third report on the project (A/68/724).

53. The construction of the premises of the Arusha branch is proceeding as planned. The Mechanism concluded the contract with an architectural and engineering consultancy firm in February 2014 and published an expression of interest for the procurement of the services of a construction firm. On 5 February 2014, the United Nations and the Government of the United Republic of Tanzania signed an agreement concerning the construction of the premises. The Government of the United Republic of Tanzania will construct access roads and the facilities required to connect utilities to the site, in addition to generously providing the United Nations with the right of occupancy of the land at no cost. The Mechanism is grateful for the cooperation of the Government of the United Republic of Tanzania and for the technical advice of the Secretariat, in particular the Office of Central Support Services and the Office of Legal Affairs.

B. Support for judicial activities

54. The Registry supported judicial activities in both branches of the Mechanism by preparing and managing case hearings, processing judicial filings, assigning and remunerating defence teams and providing translations of correspondence and judicial documents.

55. Furthermore, the Registry coordinated the creation of rosters of qualified potential staff from both within and outside the two Tribunals in order to ensure that the Mechanism can expand its staffing component rapidly in the event of sudden judicial activity, for instance following the arrest of a fugitive.

56. In addition, the Registry expanded a roster of qualified counsel under rule 43 (B) of the Rules who can be assigned to suspects or accused, as well as a roster of duty counsel under rule 43 (C) of the Rules who are readily available to be assigned to an accused for the purposes of an initial appearance.

C. Support for other mandated activities

1. Witness support and protection

57. Pursuant to its statute and the transitional arrangements, the Mechanism is now responsible for witness support and protection functions in relation to thousands of witnesses who had testified in cases completed by the two Tribunals.

58. The Arusha branch of the Witness Support and Protection Unit continued to provide support to the witnesses who had testified in cases completed by the International Criminal Tribunal for Rwanda, including specialized care for witnesses who were victims of sexual or gender-based violence during the Rwandan genocide. In collaboration with government security agencies, as well as with the Office of the United Nations High Commissioner for Refugees in the case of refugee witnesses, both branches of the Unit ensured that reports of security concerns from witnesses were resolved quickly and satisfactorily. In addition, the Hague branch of the Unit continued to work on relocating protected witnesses.

59. As part of the commitment to continue strengthening the maintenance of witness-related records received from the International Criminal Tribunal for Rwanda, the Witness Support and Protection Unit began work on a witness database that would serve as a streamlined common tool for storing and maintaining witness information at both branches of the Mechanism.

60. At both branches, the Witness Support and Protection Unit continued to contact witnesses in response to requests from national jurisdictions seeking the rescission, variation or augmentation of protective measures pursuant to rule 86 of the Rules. The number of consultations with witnesses increased over the reporting period owing to an increased number of such requests.

2. Archives and records management

61. The archives of the two Tribunals, for which the Mechanism will take responsibility, comprise approximately 15,000 m of physical records and nearly 3 PB of digital data, including more than 100,000 hours of audiovisual recordings.

62. During the reporting period, the Mechanism Archives and Records Section continued to work closely with the Tribunals on the preparation of their records and archives for transfer to the Mechanism. The Section provided advice, guidance and practical assistance to staff of the Tribunals and facilitated the transfer of active records to the Mechanism's offices and of inactive records to the Section's repositories for storage. Of the estimated total volume of the Tribunals' inactive physical records that are expected to be transferred to the Section by closure of the Tribunals, to date the Section has received approximately 30 per cent from the International Criminal Tribunal for Rwanda and 13 per cent from the International Tribunal for the Former Yugoslavia.

63. The Mechanism Archives and Records Section has assumed responsibility for temporary repositories for physical records in Arusha and The Hague, pending the development of permanent repositories in both locations. In Arusha, the Section is contributing to the design and development of the Mechanism's new premises by preparing specifications and estimates of resource requirements for the building that will house the archives and advising on requirements for storage of the Mechanism's active records. In The Hague, the Section is contributing to the development of functional requirements for housing the Tribunals' archives. The Section is also determining the requirements for a digital repository for the preservation of the Tribunals' digital archives.

64. During the reporting period, the Mechanism Archives and Records Section continued to develop the Mechanism's records and archives policies, including a record-keeping policy, an e-mail policy, standards on storing metadata, records retention schedules, and guidelines on managing sensitive information. The Section has also begun developing a comprehensive electronic document and record management system for non-judicial records and is contributing to the development of a system for judicial records.

65. On 1 January 2014, the Mechanism Archives and Records Section assumed responsibility for managing the resource and research centre of the International Criminal Tribunal for Rwanda, which is one of the best international law research resources in East Africa. The centre provides research and reference services to the Tribunal and Mechanism staff, as well as to external users, including the general public. On 1 March 2014, the Section also assumed responsibility for managing the Judicial Records Unit of the International Tribunal for the Former Yugoslavia, which manages that Tribunal's judicial records and is preparing them for transfer to the Mechanism.

3. Enforcement of sentences

66. During the reporting period, the Arusha branch was enforcing up to 29 sentences in 2 countries and the Hague branch was enforcing up to 21 sentences in 14 countries. The Mechanism actively sought the cooperation of existing enforcement States in enforcing the sentences of the two Tribunals and continued efforts to negotiate additional agreements with States in order to increase its enforcement capacity. Pursuant to decisions by the President, the Registry also oversaw the early release of three persons convicted by the International Criminal Tribunal for Rwanda and seven persons convicted by the International Tribunal for the Former Yugoslavia.

67. The Registry has developed a model sentence enforcement agreement that reflects the new legal framework of the Mechanism and current practice in the enforcement of sentences. The model agreement forms the basis for negotiations with potential enforcement States.

68. The Mechanism is grateful to those Member States that are enforcing sentences and to those that are willing to consider concluding sentence enforcement agreements. The Mechanism is also grateful to the Department of Safety and Security of the Secretariat, the designated official in Mali and the United Nations Multidimensional Integrated Stabilization Mission in Mali for their advice and reports regarding the security situation in Mali, where a number of convicted persons under the responsibility of the Mechanism are serving their sentences.

4. Assistance to national jurisdictions

69. The Registry facilitates requests from national authorities, or parties to national proceedings, for assistance in connection with the investigation and prosecution of individuals charged in relation to the genocide in Rwanda or the conflict in the former Yugoslavia. During the reporting period, the Registry received, considered and responded to numerous requests for assistance, including requests to question detained persons and protected witnesses, to vary protective measures of witnesses and to retrieve and transmit confidential material to national authorities.

5. Monitoring of referred cases

70. In accordance with article 6 (5) of the statute, the Mechanism concluded two memorandums of understanding with an international body, the International Senior Lawyers Project, for the monitoring of cases referred to Rwanda and France by the International Criminal Tribunal for Rwanda. The Registry also approached other international and regional organizations or bodies to assist in identifying potential monitors. Staff members of the Mechanism and of the two Tribunals continued to monitor the cases pending the finalization of those arrangements. Public monitoring reports are available from the Mechanism's website.

6. External relations and information-sharing

71. The Mechanism's website is available in English and French and also provides basic information on the institution's mandate and activities in Kinyarwanda and Bosnian/Croatian/Serbian. During the reporting period, the website had 159,000 page views. The website's collection of documents is growing: it currently contains more than 400 documents in English and French, and work is ongoing to add judicial documents in Kinyarwanda and Bosnian/Croatian/Serbian. In addition, two major projects have been developed, namely the case law database of the two Tribunals, which is an international criminal justice research tool, and a website entitled "The ICTR remembers", which commemorates the twentieth anniversary of the 1994 genocide in Rwanda.

72. During the reporting period, the Mechanism took additional steps to ensure that key information is accessible to individuals in Rwanda and the former Yugoslavia. For example, in conjunction with the International Criminal Tribunal for Rwanda, the Mechanism registered 38 judgements translated into Kinyarwanda as official judicial records and is exploring how best to make these records accessible to more people in Rwanda.

VI. Conclusion

73. Consistent with its statutory mandate, the Mechanism now has branches on two continents and is engaged in performing functions inherited from both the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. The Mechanism is committed to continuing to harmonize and adapt the jurisprudence, processes and procedures of the two Tribunals in order to build a small, efficient and unified institution that reflects and adheres to best practices.

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Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Security Council
Sixty-ninth year

Report of the International Tribunal for the Former Yugoslavia

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and the members of the Security Council the twenty-first annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991, submitted by the President of the International Tribunal in accordance with article 34 of the Statute of the Tribunal (see S/25704 and Corr.1, annex) which states that the President of the International Tribunal shall submit an annual report of the International Tribunal to the Security Council and to the General Assembly.

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Letter of transmittal

Letter dated 1 August 2014 from the President of the International Tribunal for the Former Yugoslavia addressed to the President of the General Assembly and the President of the Security Council

I have the honour to submit the twenty-first annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991, dated 1 August 2014, to the General Assembly and the Security Council, pursuant to article 34 of the statute of the International Tribunal.

(*Signed*) Theodor **Meron**
President

Twenty-first annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Summary

The twenty-first annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 covers the period from 1 August 2013 to 31 July 2014.

The Tribunal continued to focus on the completion of all trials and appeals, rendering two appeal judgements. Nine cases — 4 trials and 5 appeals — remain. All 161 indicted individuals are accounted for. At the close of the reporting period, 16 persons were in appeal proceedings and 4 were on trial. The present report details the activities of the Tribunal during the reporting period and demonstrates the commitment of the Tribunal to completing its proceedings as soon as possible, but without sacrificing due process.

The President of the Tribunal focused his efforts on completing the judicial work expeditiously, while maintaining high standards of procedural justice. In this context, he undertook and promoted efforts to monitor and prevent delays, including training programmes, and expedited translations of trial judgements. The President also facilitated successful efforts to bring two additional judges to the Tribunal, thereby reducing the likelihood that the judges' workload would delay proceedings.

With the valuable assistance of the Office of Legal Affairs of the Secretariat and the Security Council Informal Working Group on International Tribunals, the Tribunal continued to support a smooth transition of functions to the International Residual Mechanism for International Criminal Tribunals. While preparing for this transition, the Tribunal continued to make significant contributions to both the development of legal norms of international criminal law and procedure and to the maintenance of peace and stability in the States of the former Yugoslavia.

The Office of the Prosecutor made progress towards the completion of the mandate of the Tribunal at both the trial and appellate levels. The Office continued to develop working relationships with the authorities of the States of the former Yugoslavia to encourage cooperation with the Tribunal and to support domestic war crimes prosecutions.

Under the authority of the President, the Registry provided administrative and judicial support to the Tribunal, coordinating a wide range of legal, policy and operational matters. The Registry also coordinated the practical arrangements necessary for the transfer of responsibilities to the Mechanism.

I. Introduction

1. The twenty-first annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 outlines the activities of the Tribunal for the period from 1 August 2013 to 31 July 2014.

2. During the reporting period, the Appeals Chamber delivered judgements in the *Šainović et al.* and *Đjordjević* cases, as the Tribunal continued to implement its completion strategy as endorsed by the Security Council in resolution 1503 (2003). At the close of the reporting period, fewer than 10 trials and appeals were pending, the Tribunal had concluded proceedings against 141 of the 161 persons indicted and there were no outstanding indictments for violations of core statutory crimes. Five appeals involving 16 persons and four trials involving 4 persons were ongoing.

3. The President, Judge Theodor Meron, and the Vice-President, Judge Carmel Agius, were re-elected for an additional two-year term in October 2013. The Prosecutor, Serge Brammertz, and the Registrar, John Hocking, continued to fulfil their duties at the Tribunal.

4. The members of the Tribunal continued to identify and adopt measures to maximize the efficiency of its judicial proceedings while preserving the highest levels of procedural fairness. Additional training programmes for legal drafters were organized; the translation process was actively managed, with additional resources assigned to translations of lengthy judgements; and the progress of trials and appeals was closely monitored to address potential causes of delay. During the reporting period, two additional judges were welcomed to the Tribunal, who were assigned to the Appeals Chamber and whose presence will help prevent delays in completing ongoing cases.

II. Activities involving the entire Tribunal

A. President

5. The President oversaw the work of the Tribunal, focusing on the judicial responsibilities of his office and on initiatives aimed at the timely completion of trials and appeals. He also pursued capacity-building and legacy projects and met with Governments and international organizations.

1. Preventing delays and strengthening the Appeals Chamber

6. The President coordinated closely with the judges of the Tribunal to reduce the risk of delays in trials and appeals. Among other efforts, the President closely monitored the progress of cases and proactively assigned additional legal staff to teams requiring assistance.

7. The President acted to prevent potential delays caused by the workload of the Appeals Chamber and successfully facilitated efforts to bring additional judges to the Tribunal. Judge Mandiaye Niang of Senegal was sworn in on 30 October 2013 and has been assigned to the trial bench in the case of *Prosecutor v. Vojislav Šešelj* and the appeal in the case of *Prosecutor v. Vujadin Popović et al.* Judge Koffi Kumelio A. Afande of Togo was sworn in on 12 December 2013 and has been

assigned to two appeals in the cases of *Prosecutor v. Jovica Stanišić and Franko Simatović* and *Prosecutor v. Mićo Stanišić and Stojan Župljanin*; interlocutory appeals in the *Karadžić*, *Mladić*, and *Šešelj* cases; and two appeals from the International Criminal Tribunal for Rwanda, *Prosecutor v. Édouard Karemera and Matthieu Ngirumpatse* and *Prosecutor v. Callixte Nzabonimana*.

2. Capacity-building and legacy

8. The Tribunal worked with the Organization for Security and Cooperation in Europe (OSCE) on the second phase of the War Crimes Justice Project. That phase included skills training for judges, prosecutors and defence lawyers in the former Yugoslavia. In addition, the Tribunal participated in peer-to-peer meetings for judges and witness support services in the region.

9. The Tribunal continued to work with local authorities and international partners to establish information centres in the former Yugoslavia. In Bosnia, the project has the support of all three members of the Presidency (Bosniak, Serbian and Croatian), who agreed that at least two centres should be established in Bosnia, one in Sarajevo in the Federation of Bosnia and Herzegovina and one in Banja Luka in Republika Srpska. The city of Sarajevo has been identified as the local partner that will host the information centre, while in Banja Luka the proposed host institution is the Archive of Republika Srpska. The Mayor of Sarajevo has pledged space for the centre in the renovated city hall, while the initial proposal for Banja Luka is for the centre to be situated on the premises of the Archive. Furthermore, following a request made by victims' associations from Srebrenica during a meeting with the President of the Tribunal, contact has been made with the Srebrenica-Potočari Memorial and Cemetery for the Victims of the 1995 Genocide to explore the possibility of establishing an information centre in the Srebrenica region on the premises of the Memorial. The representatives of the Memorial have confirmed their general interest in joining the project and further details will be discussed in the coming months. In Croatia, the authorities restated their position that an information centre could be hosted on the premises of the University of Zagreb should the decision be made to establish a centre in Croatia. In Serbia, the new Government has yet to provide an official response to the proposal to establish an information centre. Initiatives in all countries will require external funding and support.

10. In November 2013, to mark the twentieth anniversary of its establishment by Security Council resolution 827 (1993), the Tribunal convened a conference in Sarajevo. The conference discussed a number of key topics, including victim and witness protection, support in war crimes trials before national courts and the legacy, achievements and continuing challenges of the Tribunal. The President gave a keynote address at the conference, which was attended by representatives of various communities in the former Yugoslavia, officials from national judiciaries and regional and international experts, panellists and speakers.

3. Relations with Governments and international organizations

11. Throughout the reporting period the President conducted a number of missions on behalf of the Tribunal, during which he provided briefings to government and judicial officials on the work of the Tribunal, the implementation of the completion strategy, the transition to the Mechanism and the challenges facing the Tribunal. The President undertook such visits to Bosnia and Herzegovina from 24 to 28 November

2013; to France on 10 January 2014; to the United Kingdom of Great Britain and Northern Ireland on 19 and 20 May 2014; to the United States of America on 29 and 30 May 2014; and to Croatia on 6 and 7 July 2014.

12. The President also made presentations regarding the work of the Tribunal to the principal organs of the United Nations. On 14 October 2013, he addressed the General Assembly regarding the twentieth annual report of the Tribunal (A/68/255-S/2013/463). On 5 December 2013, the President addressed the Security Council to present the twentieth completion strategy report of the Tribunal (S/2013/678). On 5 June 2014, the President addressed the Security Council regarding the twenty-first completion strategy report of the Tribunal (S/2014/351).

13. The Tribunal hosted a number of official visitors during the reporting period, who met with the President, judges and other officials to learn about the achievements, challenges and ongoing work of the Tribunal. Government representatives who visited included a delegation from the Ministry of Justice of the Netherlands, Under-Secretaries of State for Justice from Germany and diplomats from various embassies. Visits by legal professionals included delegations of judges from China, Germany and the Republic of Korea; a group of judges from East Africa, including the President of the East African Court of Justice and the Chief Justice of the United Republic of Tanzania; a group of French judges and prosecutors; and a delegation of Spanish magistrates.

4. Judicial activity

14. The Statute of the Tribunal, the rules of procedure and evidence and the practice directions confer upon the President certain judicial functions. In carrying out such duties the President issued numerous orders assigning cases to Chambers and reviewed several decisions of the Registrar in the reporting period. The President also considered three requests for pardon, commutation of sentence, transfer and early release of persons convicted by the Tribunal, granting two requests and rejecting one.

5. Transition to the Mechanism

15. The branch of the Mechanism in The Hague commenced operations on 1 July 2013. The President has taken active steps to ensure a smooth handover of functions to the Mechanism, liaising with internal and external stakeholders and facilitating the development of necessary practices and procedures.

B. Bureau

16. Pursuant to rule 23 of the rules of procedure and evidence, the Bureau is composed of the President, the Vice-President and the presiding judges of the Trial Chambers. During the reporting period, the President consulted the Bureau on requests for pardon, commutation of sentence and early release of convicted persons serving their sentences. The Bureau also advised the President on general policy matters relevant to the Tribunal.

C. Coordination Council

17. Pursuant to rule 23 bis of the rules of procedure and evidence, the Coordination Council consists of the President, the Prosecutor and the Registrar. The Council held several meetings during the reporting period to discuss, inter alia, archives, budgetary concerns and ensuring a smooth transition to the Mechanism.

D. Plenary sessions

18. During the reporting period, the judges held three plenary sessions, on 1 October and on 10 December 2013 and on 17 July 2014.

E. Rules Committee

19. The judicial membership of the Rules Committee comprises Vice-President Carmel Agius (Chair), President Theodor Meron and Judges Christoph Flügge, Alphons Orie, and O-Gon Kwon. The non-voting members include the Prosecutor, the Registrar and a representative of the Association of Defence Counsel. During the reporting period, the Rules Committee met on 15 May 17 June and 25 June 2014, to discuss proposed amendments to the rules of evidence and procedure and make recommendations to the judges of the Tribunal.

III. Activities of the Chambers

A. Composition of the Chambers

20. Twenty-three judges from 22 countries currently serve at the Tribunal. The Chambers are currently composed of 14 permanent tribunal judges, 6 permanent judges of the International Criminal Tribunal for Rwanda serving in the Appeals Chamber and 3 ad litem judges.

21. The permanent judges are Theodor Meron (President, United States), Carmel Agius (Vice-President, Malta), Christoph Flügge (Germany), Alphons Orie (Netherlands), O-Gon Kwon (Republic of Korea), Patrick Robinson (Jamaica), Fausto Pocar (Italy), Liu Daqun (China), Jean-Claude Antonetti (France), Bakone Justice Moloto (South Africa), Burton Hall (Bahamas), Howard Morrison (United Kingdom), Guy Delvoie (Belgium) and Koffi Kumelio A. Afande (Togo). The permanent judges from the International Criminal Tribunal for Rwanda serving in the Appeals Chamber are William Hussein Sekule (United Republic of Tanzania), Mehmet Güney (Turkey), Arlette Ramaroson (Madagascar), Khalida Rachid Khan (Pakistan), Bakhtiyar Tuzmukhamedov (Russian Federation) and Mandiaye Niang (Senegal).

22. The ad litem judges are Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo), Flavia Lattanzi (Italy), and Melville Baird (Trinidad and Tobago). Frederik Harhoff (Denmark) served as an ad litem judge during the reporting period but left the Tribunal on 21 October 2013.

23. At the close of the reporting period, the Trial Chambers were composed of Judges Orie (presiding), Kwon (presiding), Flügge (presiding), Antonetti, Moloto, Hall, Morrison, Delvoie, Mindua, Lattanzi and Baird.

24. At the close of the reporting period, the Appeals Chamber was composed of Judges Meron (presiding), Agius, Sekule, Robinson, Güney, Pocar, Liu, Ramaroson, Khan, Tuzmukhamedov, Niang, and Afande.

B. Principal activities of the Chambers

25. There were no pretrial cases pending before Trial Chambers during the reporting period.

1. Trial Chamber I

Mladić

26. Ratko Mladić is charged with 11 counts of genocide, crimes against humanity, and violations of the laws or customs of war, all in relation to acts allegedly committed in Bosnia and Herzegovina between 12 May 1992 and 30 November 1995. The Trial Chamber is composed of Judges Orie (presiding), Flügge and Moloto. The trial commenced on 16 May 2012. The defence case started on 19 May 2014 and the judgement is expected in July 2016.

2. Trial Chamber II

Hadžić

27. Goran Hadžić is charged with 14 counts of crimes against humanity and violations of the laws or customs of war, all in relation to acts allegedly committed in Croatia and Serbia between 25 June 1991 and December 1993. The Trial Chamber is composed of Judges Delvoie (presiding), Hall and Mindua. The trial commenced on 16 October 2012. The defence case started on 3 July 2014, and the judgement is expected in December 2015.

3. Trial Chamber III

Karadžić

28. Radovan Karadžić is charged with 11 counts of genocide, crimes against humanity and violations of the laws or customs of war, all in relation to acts allegedly committed in Bosnia and Herzegovina between 1992 and 1995. The Trial Chamber is composed of Judges Kwon (presiding), Morrison, Baird and Lattanzi (reserve). The trial commenced on 26 October 2009. The defence case closed on 2 May 2014 and closing arguments are expected in September 2014. The judgement is expected in October 2015.

Šešelj

29. Vojislav Šešelj is charged with nine counts of crimes against humanity and violations of the laws or customs of war, all in relation to acts allegedly committed in Croatia, Bosnia and Herzegovina and Vojvodina (Serbia) between August 1991 and September 1993. Following the disqualification of Judge Harhoff in October 2013, while the case was in its deliberation phase, the Trial Chamber is now

composed of Judges Antonetti (presiding), Niang and Lattanzi. The decision of the Trial Chamber that the trial could continue, despite Judge Harhoff being replaced by Judge Niang, was upheld by the Appeals Chamber.

30. Judge Niang must now certify that he has familiarized himself with the record of proceedings prior to their recommencement. Judge Niang has advised that he will require at least until the end of June 2015 in order to familiarize himself with these proceedings. Presiding Judge Antonetti has indicated that he will do his best to shorten the period required to render the judgement once Judge Niang's review has been completed.

4. Rule 11 bis Referral Bench

31. The Rule 11 bis Referral Bench has transferred all low- and mid-level accused from its trial docket in accordance with Security Council resolution 1503 (2003). During the reporting period, the Rule 11 bis Referral Bench issued a confidential decision in relation to a previously referred case.

5. Hearings pursuant to rule 75 (H) and (G), rule 75 bis and rule 75 ter of the rules of procedure and evidence

32. On the request of a third party, two hearings pursuant to rule 75 bis of the rules of procedure and evidence were conducted. Since the responsibility for applications in cases where no chamber of the Tribunal remains seized has now moved to the Mechanism, the former specially appointed chamber that addressed applications under the rules no longer exists.

6. Principal activities of the Appeals Chamber

(a) Interlocutory appeals

33. The Appeals Chamber issued nine decisions on interlocutory appeals.

(b) Appeals on the merits

34. The Appeals Chamber rendered two final judgements during the reporting period.

35. In the case of *Prosecutor v. Nikola Šainović et al.*, the appeal judgement was rendered on 23 January 2014. The Appeals Chamber affirmed the majority of the defendants' convictions while granting certain grounds of appeal raised by the appellants. The Appeals Chamber reduced Mr. Šainović's sentence from 22 to 18 years of imprisonment; affirmed Nebojša Pavković's sentence of 22 years of imprisonment; reduced Vladimir Lazarević's sentence from 15 to 14 years of imprisonment; and reduced Sreten Lukić's sentence from 22 to 20 years of imprisonment.

36. In the case of *Prosecutor v. Vlastimir Đorđević*, the appeal judgement was rendered on 27 January 2014. The Appeals Chamber affirmed the majority of Mr. Đorđević's convictions, while granting, either in full or in part, certain grounds of appeal raised by him and one ground of appeal raised by the prosecution. Granting the latter ground of appeal, the Appeals Chamber entered an additional conviction for persecution (sexual assault). The Appeals Chamber reduced Mr. Đorđević's sentence from 27 to 18 years of imprisonment.

37. Five Appeals Chamber cases discussed in the previous annual report, namely *Prosecutor v. Vujadin Popović et al.*, *Prosecutor v. Zdravko Tolimir*, *Prosecutor v. Jovica Stanišić and Franko Simatović*, *Prosecutor v. Mićo Stanišić and Stojan Župljanin* and *Prosecutor v. Jadranko Prlić et al.*, are still pending before the Appeals Chamber. The Appeals Chamber held an appeal hearing in the *Popović et al.* case in December 2013. Pre-appeal activity is ongoing in the other cases and judgements in the five cases are respectively forecast to be rendered in October 2014, March June 2015 and November 2015 and mid-2017.

38. As set out above, the appeal judgement in the case of *Prosecutor v. Jovica Stanišić and Franko Simatović* is now forecast for June 2015, later than the previous forecast of December. The reasons for the delay in the case are as follows: (a) the fact that the initial projection was based on an incorrect assessment of the case, as compared with other cases and (b) supervening difficulties during the first half of the current year in the activities of the legal team charged with assisting the Chamber in the pre-appeal phase, which were only identified in June 2014. Once the latter problem had been identified, action was immediately taken to avoid any further delay and a new coordinator was appointed to lead the team.

(c) Other appeals

39. In the case of *Prosecutor v. Milan Lukić and Sredoje Lukić*, the Appeals Chamber denied, on 30 August 2013, Sredoje Lukić's motion seeking reconsideration of the appeal judgement.

40. In the case of *Prosecutor v. Momčilo Perišić*, on 20 March 2014, the Appeals Chamber denied a prosecution motion seeking reconsideration of the appeal judgement.

41. A total of 126 pre-appeal decisions and orders were issued during the reporting period.[1]

IV. Activities of the Office of the Prosecutor

A. Completion of trials and appeals and transition to the Mechanism

42. During the reporting period, the Office of the Prosecutor remained focused on ensuring the expeditious continuation of trial proceedings and efficiently handling the remaining appeals, while contending with the problem of escalating staff attrition and downsizing. The Office continued to allocate its resources flexibly to ensure that it met all its obligations, while maintaining the highest standards of justice. On 1 July 2013, the Office transferred some of its functions to the Mechanism and has since continued to assist Mechanism officials and personnel in transferring functions in accordance with the prescribed transitional arrangements.

43. In the reporting period, judgements were issued in two appeals (*Šainović et al.* and *Đorđević*). At the end of the reporting period two cases were in the phase of presentation of defence evidence (*Hadžić* and *Mladić*); one case was in the final briefing process following the completion of the phase of presentation of defence evidence (*Karadžić*); and one case was still awaiting judgement at the trial chamber

[1] This figure includes orders and decisions filed as of 30 July 2013.

level (*Šešelj*). In addition, five cases were on appeal (*Popović et al.*, *Tolimir*, *Stanišić and Župljanin*, *Prlić et al.*, and *Stanišić and Simatović*).

B. Cooperation

44. The Office of the Prosecutor continued to rely on the full cooperation of States to fulfil its mandate. The cooperation of the States of the former Yugoslavia remains important and is primarily focused on day-to-day support for ongoing trials and appeals. The Prosecutor continued to foster working relations with national prosecutors, meeting with officials in Sarajevo in October 2013 and April 2014; in Belgrade in November 2013 (with his planned May 2014 visit cancelled due to the floods) and in Brijuni, Croatia, in May 2014 to discuss cooperation and other issues of mutual relevance. The Office will continue to request cooperation from Serbia, Croatia and Bosnia and Herzegovina in support of its ongoing casework in the months to come.

1. Cooperation of Serbia

45. Serbia continued to play an important role in ensuring the successful completion of the work of the Office of the Prosecutor. Serbia has been diligent in processing requests for assistance from the Office and has adequately facilitated its access to witnesses, including by facilitating the appearance of witnesses before the Tribunal.

2. Cooperation of Croatia

46. Over the course of the reporting period, the Croatian authorities provided timely and adequate responses to day-to-day requests for assistance from the Office of the Prosecutor and facilitated access to witnesses and evidence as required. Throughout the presentation of the prosecution evidence in the Hadžić trial, Croatia facilitated videoconference links, enabling elderly or ill witnesses to give evidence without having to travel to the Tribunal and in September 2013, it facilitated a site visit of the Hadžić trial chamber to certain locations in eastern Croatia referred to in the Hadžić indictment.

3. Cooperation of Bosnia and Herzegovina

47. During the reporting period, the authorities of Bosnia and Herzegovina responded promptly and adequately to most requests from the Office of the Prosecutor for documents and access to government archives. They also provided valuable assistance with witness protection matters and facilitated the appearance of witnesses before the Tribunal.

4. Cooperation between States of the former Yugoslavia in judicial matters

48. The Office of the Prosecutor continued to promote improved regional cooperation and collaboration in war crimes matters as an essential tool for combating impunity in the former Yugoslavia. The Office also fostered productive working relationships between regional prosecutors. A protocol on the exchange of information and evidence in war crimes cases was adopted between Bosnia and Herzegovina and Montenegro on 29 April 2014, following the signing of similar protocols between Bosnia and Herzegovina and Serbia and Croatia in the previous

reporting period. While investigative files have been transferred as a result of the protocols, no indictments have yet been transferred. The Office encourages the respective authorities to produce concrete results from implementation of the protocol.

49. The regional cooperation protocols came under public scrutiny in January and February 2014, when Serbia and Croatia issued international arrest warrants against citizens of Bosnia and Herzegovina. One of the aims of the protocols was to avoid the potentially destabilizing effects in the region of issuing such warrants. The Office of the Prosecutor encourages the signatories to use the channels described in the protocols as the primary avenue for concluding any investigations concerning individuals in other States.

5. Cooperation of other States and organizations

50. Cooperation and support from States outside the former Yugoslavia and from international organizations remained important for the successful completion of the mandate of the Tribunal. In order to progress its remaining casework expeditiously, the Office of the Prosecutor must continue to access the wealth of information held in the archives and other institutions of Member States of the United Nations. The Office acknowledges the assistance it has received from the United Nations and its agencies, the European Union, the North Atlantic Treaty Organization, OSCE, the Council of Europe and non-governmental organizations, including those active in the former Yugoslavia.

C. Transition from the Tribunal to national war crimes prosecutions

51. As the Tribunal moved closer to the completion of its mandate, the Office of the Prosecutor remained committed to promoting effective war crimes prosecutions in the former Yugoslavia. During the reporting period, the Office continued to provide information related to the ongoing cases at the Tribunal to assist national jurisdictions in prosecuting crimes arising out of the conflict in the former Yugoslavia. The joint European Union/Tribunal "liaison prosecutors" project, in its fifth year of operation, remained a central component of the Office's strategy to strengthen the capacity of national criminal justice systems in the former Yugoslavia to undertake war crimes cases.

52. However, the Office was seriously concerned about the very limited progress in the investigation and prosecution of the category II cases (investigation files), almost five years after it transferred the last such case to Bosnia and Herzegovina. In spite of assurances in numerous meetings concerning the completion of those cases, only one prosecutorial decision had been taken resulting in the issuance of an indictment. No prosecutorial decision had been taken to close or complete another category II investigation. The Prosecutor has called upon the Prosecutor's Office of Bosnia and Herzegovina to devote serious time and attention to those cases. The Prosecutor will return to Bosnia and Herzegovina in September to review the progress that has been made towards resolving the outstanding category II caseload.

53. The Office of the Prosecutor continued to urge the authorities of Bosnia and Herzegovina to finalize investigations arising out of material it has transferred to them concerning crimes documented in cases brought by the Office, but which did not form part of indictments at the Tribunal.

54. Serious issues remained in relation to the implementation of the national war crimes strategy in Bosnia and Herzegovina. The strategy continues to face considerable delays and a large backlog of cases remains to be prosecuted. The Prosecutor's Office of Bosnia and Herzegovina has indicated that its initial deadline for completing 352 complex cases will need to be extended for three years, until the end of 2018.

55. Although there has been some progress in the transfer of cases from State judicial organs to entity judicial organs, the number of indictments issued by the entities remained low. Continued attention is needed regarding the resources available for investigating and prosecuting cases at the entity level.

56. Comprehensive measures and a commitment to radical improvements are required to make the strategy effective. The Office of the Prosecutor hopes that the recent increase in staff numbers in the Prosecutor's Office of Bosnia and Herzegovina, including the near doubling of the number of prosecutors in the war crimes department, will advance the implementation of the strategy in the upcoming period. The Office will follow the anticipated progress closely. In addition, the Office urges the authorities of Bosnia and Herzegovina to pay increased attention to cases of sexual violence, given the reported magnitude of such crimes and the current dearth of prosecutions devoted to them.

D. Capacity-building and legacy

57. The Office of the Prosecutor has continued its efforts to transfer expertise and information to national authorities in order to build capacity for national war crimes prosecutions in the former Yugoslavia. It has also sought to share the lessons learned and best practices developed from its work over the past 21 years with national counterparts working across a range of criminal justice sectors in Africa, South America, Europe and the Middle East. While directly relevant to national war crimes prosecutions, the experience of the Office is also beneficial for the investigation and prosecution of other types of transnational and complex crimes, such as terrorism and organized crime.

V. Activities of the Registry

58. During the reporting period, the Registry provided judicial, diplomatic, operational and administrative support for the Tribunal and managed its outreach programme.

59. The Registry serves a wide range of clients, including judges and parties, witnesses and detained persons, Member States and international organizations. The Registry administers court operations and judicial records, provides assistance to national jurisdictions, offers protection and support services to witnesses, administers the legal aid scheme of the Tribunal, explains the mandate and achievements of the Tribunal and manages the United Nations Detention Unit. It develops policies and negotiates agreements. In addition, the Registry coordinates or provides the entire spectrum of administrative services from human resources to security, procurement to finance and budget, information technology and general services, to the provision of health services.

A. Division of Judicial Support Services

60. During the reporting period, the Registry supported four cases on trial and seven on appeal, involving 25 accused persons.

61. The Judicial Support Services Division underwent a major restructuring and consolidation to streamline its operations and respond to the downsizing efforts of the Tribunal. The restructuring included the merger of part of the former Court Management Support Services, the Victims and Witnesses Section and the Office for Legal Aid and Defence into one new section: the Court Support Services Section as of 1 March 2014. The recently established Section has four units: the Witness Support and Operations Unit and the Witness Protection Unit (collectively referred to as the Victims and Witnesses Section), the Courtroom Operations Unit and the Office for Legal Aid and Defence. Another part of the former Court Management Support Services, now called the Judicial Records Unit, reports to the Mechanism Archives and Records Section.

62. As of 31 July 2014, the Victims and Witnesses Section had assisted 207 witnesses (and accompanying support persons) to travel to The Hague to give evidence. In addition, it continued to consult with witnesses on applications to vary their protective measures. Further, for its research regarding the long-term impact of giving testimony at the Tribunal, it completed 95 witness interviews. The Witness Protection Unit coordinated professional responses to threats to witnesses and continued working on relocating protected witnesses. The Victims and Witnesses Section supported the Mechanism in preparing policies and practices and developing shared access to its databases for the branches of the Mechanism in The Hague and Arusha.

63. The Courtroom Operations Unit supported four trials and seven appeals, including five videoconference links, four rule 92 bis missions and one site visit. It also assisted three self-represented accused through its *Pro Se* Office. As of 31 July 2014, in cooperation with the Judicial Records Unit, the Unit had processed 81 requests for assistance submitted by national jurisdictions.

64. The Office for Legal Aid and Defence continued to administer the legal aid system of the Tribunal, overseeing more than 200 defence team members. Of the 25 individuals in trial and appeal proceedings during the reporting period, 23 were found unable or partially unable to remunerate counsel and were thus granted legal aid. Approximately half of those cases were ranked at the highest complexity level. The Office also assisted detained witnesses with their legal representation and administered the appointment and remuneration of *amici curiae*. In addition, the Office provided assistance on legal, policy, and operational matters relating to the management of the legal aid system of the Mechanism.

65. As of 31 July 2014, the Judicial Records Unit had processed 3,562 Tribunal filings (49,585 pages), 425 Mechanism filings (3,064 pages) and 714 transcripts (57,005 pages). It also facilitated the sharing and transfer of judicial records between the Tribunal and the Mechanism.

66. The Conference and Language Services Section continued to provide interpretation, translation and court reporting services for the Tribunal. At the beginning of June 2014, it delivered the English translation of the French trial judgement issued in the *Prlić et al.* case. It did so only 13 months after the date of

the original judgement. With approximately 1.3 million words or 4,260 United Nations pages, this was the longest judgement ever translated by the Section.

67. The Office of Document Management merged with the Conference and Language Services Section in September 2013. Its work of processing translation requests and identifying duplicates saved approximately $400,000 over the reporting period.

68. The United Nations Detention Unit continued to support both the Tribunal and the Mechanism and was responsible for detaining up to 34 individuals in conditions meeting the applicable international standards. It facilitated the presence of detainees at court hearings, ensured the care and security of detained witnesses and implemented the provisional release of one detainee. The Unit continued to support self-represented accused in the preparation of their defence cases with a wide range of facilities. Detainees were provided with in-house medical care and specialist medical assistance. In addition, it facilitated medical examinations by court-appointed medical experts and by physicians chosen by detainees.

B. Administration Division

69. Under the leadership of the Registrar, the Tribunal was again successful in being granted its requested budget in its entirety. By resolution 68/256, the General Assembly decided to appropriate the full amount of $201,688,200 gross ($179,998,600 net) for the biennium 2014-2015.

70. During the biennium 2014-2015, extra budgetary resources are estimated at $1,079,300 to be utilized for a variety of Tribunal activities. As of 31 July 2014, cash donations of approximately $52.5 million had been received by the Voluntary Fund over the lifetime of the Tribunal. For the period from 1 August 2013 to 31 July 2014 the Tribunal received and administered $929,833 in voluntary cash contributions.

71. Under the leadership of the Registrar, the Administration Division continued to actively engage with both management and staff representatives in further implementing downsizing procedures. The Office of Internal Oversight Services noted that the comparative review and downsizing process implemented at the Tribunal represented "Best practice in leadership of a change process". The budget approved for the biennium 2014-2015 envisages a phased reduction of 361 temporary posts and general temporary assistance positions during the biennium. Approximately 50 per cent of staff members were supported in their career transition through a wide range of measures, including in-house workshops and individual coaching.

72. The Division also coordinated the finalization of the proposed budgets for the Tribunal and the Mechanism for the biennium 2014-2015. In accordance with the administrative closure plan approved in 2012, the administration building will be gradually vacated during the reporting period. All staff members in the administration building are expected to be relocated to the main building by the end of the biennium. Finally, during the reporting period the Administration Division provided overall administrative support to the Mechanism, which included, inter alia, the launch and start-up of the branch of the Mechanism in The Hague.

C. Office of the Registrar, Mechanism Archives and Records Section and Communications Service

73. The Immediate Office of the Registrar supported the Registrar in his overall responsibility of directing the Registry, including supervising all Registry sections and representing the Tribunal in its relations with the host State, embassies and ministries, the United Nations and other international organizations.

74. The Immediate Office also supported the Registrar in managing Mechanism registry operations in both Arusha and The Hague. With the latter branch in operation, the Tribunal Registry shifted its focus from setting up the branch to supporting judicial proceedings before the Mechanism and finalizing its policies and operating procedures. The staff of the Tribunal worked hand in hand with the staff of the Mechanism to ensure that the policies of the Mechanism reflected the most efficient and effective procedures and benefited from lessons learned at the Tribunal.

75. The Immediate Office continued to assist the Registrar and the Administration Division with the implementation of downsizing procedures. In light of the continuing decrease in the number of posts and reduction in staff, it also assisted in implementing the new structure for the Division of Judicial Support Services in pursuit of further efficiencies. Registry staff were assisted in applying their expertise to new tasks and becoming ever more multifunctional.

76. The Mechanism Archives and Records Section continued to support the Tribunal offices with the preparations for transferring the records to the Mechanism. To date, the Tribunal has transferred approximately 13 per cent of the estimated total volume of physical inactive records that are expected to be transferred to Section. The Section contributed to the further development of policies and procedures, such as the electronic mail policy of the Tribunal.

77. Utilizing the expertise of the Mechanism Archives and Records Section, the Registrar led the implementation of the emergency response and disaster recovery plan for the Tribunal, organizing disaster readiness measures. The Section continued to develop and implement the retention schedules of the Tribunal records, focusing on schedules for the records of Chambers and the Administration Division. The Section continued to provide records storage and retrieval services for Tribunal offices, including the destruction of time-expired records in compliance with approved retention schedules.

78. Interest in the work of the Tribunal remained extremely high, with the Communications Service continuing to provide information to a wide range of audiences. During the reporting period, the Tribunal welcomed almost 6,000 visitors.

79. The audience base for the social media platforms of the Tribunal continued to expand. The website provided a selection of judicial documents and the online broadcast of all trials in all available languages. The Communications Service also supported the development of an Internet platform for the Mechanism.

80. The outreach programme continued to deliver accurate factual information about the work of the Tribunal and to stimulate debate in the former Yugoslavia. It prepared an exhibition of the work and achievements of the Tribunal, displayed in The Hague and in Sarajevo, and also completed the second, and initiated the third, phase of its youth outreach project in high schools and universities in all countries

of the region, reaching almost 2,000 young people. The field offices of the Tribunal in Belgrade and Sarajevo organized 20 outreach events reaching approximately 1,000 individuals.

81. Two documentaries about the work of the Tribunal were produced. The first, entitled "*Through Their Eyes: Witnesses to Justice*", which highlights the crucial role that witnesses play in the work of the Tribunal, was screened in Bosnia and Herzegovina, Croatia, Serbia and The Hague, drawing significant media attention. The second, "*Crimes before the ICTY: Central Bosnia*" was completed in July 2014, and will also be widely screened and distributed in the former Yugoslavia and internationally.

82. The European Union has provided funding for the full continuation of the outreach programme until mid-2015, however it will not support the programme beyond that date. The Tribunal underscores the importance of General Assembly resolution 65/253, in which it encouraged the Secretary-General to continue to explore measures to raise voluntary funds for outreach activities. The Tribunal calls upon States and other donors to support outreach activities at this critical juncture.

United Nations S/2014/557

Security Council

Distr.: General
1 August 2014

Original: English

Identical letters dated 1 August 2014 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General and the President of the Security Council

Earlier today, in a blatant violation of a humanitarian ceasefire, Hamas killed two soldiers and kidnapped a third, Hadar Goldin. The attack took place just an hour and a half after the ceasefire went into effect.

While Israel agreed to this ceasefire to allow humanitarian relief for the people of Gaza, Hamas agreed so that it could plan and carry out an attack and kidnap a soldier. Hamas used one of its terror tunnels to perpetrate a suicide bombing which killed two Israelis. This attack was a diversion that allowed terrorists to kidnap Hadar Goldin.

Hamas has violated all five ceasefire agreements and made it clear that it is more committed to kidnapping and murdering Israelis than ensuring the welfare of the Palestinian people. Just yesterday, Hamas spokesman Fawzi Barhoum called on Palestinians to murder Israelis by any means, saying, "Anyone with a knife, club, weapon or a car, and who does not run down a Jew or a settler, or who does not kill dozens of Zionists with these means — he does not belong to Palestine."

Hamas has sent hundreds of suicide bombers into our cities and towns and kidnapped our children. In the last month, Hamas has also launched 3,073 rockets into Israel. How much more evidence is needed before the United Nations will finally designate Hamas as a terrorist organization and call for its disarmament?

It is time to hold Hamas accountable for its actions. It is time for the international community to stop giving Hamas a free pass and see the group for what it is — a radical Islamist terrorist organization committed to the destruction of the State of Israel.

I call on the Secretary-General and the Security Council to immediately and unequivocally:

1. Clearly condemn Hamas for violating the ceasefire and preventing humanitarian assistance from reaching the people of Gaza;

2. Condemn Hamas for murdering and kidnapping Israelis and call for the immediate and safe return of Hadar Goldin;

3. Demand the demilitarization of the Gaza Strip;

4. Designate Hamas as a terrorist organization.

14-58630 (E) 010814

Please recycle

I should be grateful if you would have the present letter distributed as a document of the Security Council.

(*Signed*) Ron **Prosor**
Ambassador
Permanent Representative